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1st Session

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REPORT NO.
98-289

PUBLIC BUILDINGS ACT OF 1983

REPORT

OF THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS UNITED STATES SENATE

TO ACCOMPANY

S. 452

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PUBLIC BUILDINGS ACT OF 1983

OCTOBER 31, 1983.—Ordered to be printed

Mr. STAFFORD, from the Committee on Environment and Public Works, submitted the following

REPORT

[To accompany S. 452]

The Committee on Environment and Public Works, to which was referred the bill (S. 452) to establish public buildings policies for the Federal Government, to establish the Public Buildings Service in the General Services Administration, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill (as amended) do pass.

GENERAL STATEMENT

BACKGROUND AND LEGISLATION

In recent years, the Committee on Environment and Public Works has become increasingly concerned over mounting indications that the public buildings program of the Government, as administered by the General Services Administration, has ceased to work in the best interests of the Government or the Nation. On March 6, 1979, following committee deliberations over renewal of a long-term lease, the background and purpose of which the committee found questionable, and cognizant of reports and criminal proceedings alleging misfeasance in the GSA, the committee voted unanimously to impose a moratorium on further authorizations of nonemergency public building projects. The committee agreed at that time to undertake a review of the public buildings program and to develop comprehensive remedial legislation.

Over the course of the 9 months following imposition of the moratorium, the committee conducted five separate hearings. The staff met with private citizens in the fields of real estate, construction, and design and consulted officials of the General Services Administration and the General Accounting Office. In December 1979, S. 2080, the Public Buildings Act of 1979, was introduced by Senator Moynihan. The other 13 members of the committee joined as cosponsors. Following introduction of the bill, the committee held four more hearings and members of the committee and staff held additional meetings with executive branch officials and private experts to refine the legislation.

S. 2080 was favorably reported to the Senate by unanimous vote of the committee on May 15, 1980, and passed the Senate on a vote of 71–8 on June 20, 1980. The House of Representatives passed legislation encompassing only one provision of S. 2080 and requested a conference. Senate and House conferees were unable to resolve their differences, however. The major unresolved issues were those related to congressional authorization procedures for the public buildings program.

On February 24, 1981, Senator Stafford introduced S. 533, the Public Buildings Act of 1981. A majority of the committee joined him as cosponsors. After two hearings, the committee ordered the bill reported on April 2, 1981. S. 533 passed the Senate by a vote of 93–0 on May 6, 1981. No comparable legislation passed the House of Representative during the 97th Congress.

In the 98th Congress, Senator Stafford introduced S. 452 on February 3, 1983, and hearings were held on June 7. This bill was ordered reported from the Committee on Environment and Public Works by a vote of 16–0 on September 28.

As reported by the committee, S. 452 is essentially similar to S. 2080 and S. 533 as they passed the Senate in the 96th and 97th Congresses. It reforms and reorganizes the public buildings program of the GSA, under which close to 1 million Federal employees are provided working space at a cost, in fiscal year 1983, of about $2 billion. The bill requires, for the first time in the history of the Government's building program, continual long-range planning to foresee and meet the Government's building needs, provides Congress with systematic annual procedures for authorizing and overseeing the operations of the program, establishes policies and priorities to be followed in locating Federal offices and administering the program, sets up organizational and procedural frameworks that promote better architectural design, and declares that it is the sense of the Congress that long-run economies could be achieved by meeting more of the Government's space needs through Federal ownership rather than leasing.

The bill is organized into ten titles, as follows:

Title I: General Authorities;
Title II: Locations for Federal Agency Offices;
Title III: Design and Management of Public Buildings;
Title IV: Mixed Use and Adaptive Use in Public Buildings;
Title V: Exhibitions and Works of Art;
Title VI: Architectural Services;
Title VII: Leasing;
Title VIII: Congressional Authorization;

Title IX: Public Buildings Financing; and
Title X: Miscellaneous.

HISTORICAL PERSPECTIVE

The bill reported by the committee would repeal and replace the Public Buildings Act of 1959. The scope of problems found in the existing program prompted the drafting of comprehensive new legislation. The Public Buildings Act of 1983, if enacted, will significantly improve the public buildings program, just as the 1959 act markedly improved the public buildings program operating before its enactment.

Prior to 1959, construction of public buildings for the Government was authorized in occasional legislation, but there was no public building program as such. From the first Congress until 1902, new Federal buildings were authorized by location and cost in separate legislation. In 1902, an omnibus bill was passed that authorized construction of public buildings at 150 locations throughout the country. Another omnibus bill passed in 1913, but its authorizations were suspended by the intervention of the First World War. In the 1913 bill, Congress also created a temporary Public Buildings Commission to review the criteria used to determine the need and designs for public building projects. Some concerns cited at that time are similar to those that have prompted this committee's actions over the past several years: Members of Congress and journalists questioned the need or expense of some building projects and expressed alarm over the government's rent bill in the District of Columbia, then approaching $1 million. (The GSA national rent bill is now approaching $1 billion.)

Building revived only upon enactment of the Public Buildings Act of 1926, which was little more than an omnibus authorization act. As amended during the course of the depression, that act authorized a total of $620 million for public buildings construction and renovation. The 1926 Act was repealed by the act of 1959.

From 1939 to 1949, the Second World War brought public building work to a halt (except for the construction of defense installations, including the Pentagon, and "temporary" office buildings, some of which remain in use to this day.)

In 1949, a new Public Buildings Act provided general authority for GSA only to plan and acquire sites for Federal buildings. That act was superseded by the 1959 legislation. During the 1950's some individual buildings were authorized in separate enactments and a number were constructed through lease-purchase authority enacted in 1954 and allowed to expire in 1957.

EXISTING PRACTICE

Under the Public Buildings Act of 1959, building projects are effectively authorized by resolutions adopted by both the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation. Such resolutions approve a specific prospectus or 11(b) report submitted by GSA. Section 7 of the act requires GSA to submit to the committees prospectuses describing the need for construction, repair, or alteration of a public building, if the undertaking is expected to cost more than $500,000. Prospectuses are also required, pursuant to 1972 amendments to the Act, on new leases or lease renewals of $500,000 per year or more. Section 11(b) of the act permits the public works committee of either the House or the Senate to direct GSA to submit a report on the possible need for a public building project in a specific locality. The 11(b) reports are identical to prospectuses and are similarly approved by committee resolution, effectively authorizing projects whether or not approved by the executive branch.

Under these provisions, the committee has received prospectuses for major construction, repair, and lease proposals throughout the year. Their arrival at the committee has been unscheduled and unanticipated. A pro forma declaration in each prospectus asserts the project's importance to the efficient functioning of the Government, but the committee is provided no information on the relative priorities among the proposals. In testimony before the committee in 1979, GSA officials conceded that there was no long-range planning or overall program guiding the substance or timing of prospectus submissions. At the urging of the committee, the Public Buildings Service began producing a long-range plan in early 1981, but even this rudimentary planning has ceased. GSA has submitted no plan in 1983 and has yet to demonstrate the capacity to integrate planning into its decision-making process as opposed to merely publishing a formal planning document. The long-range plans submitted by GSA in 1981 and 1982 consisted mainly of various lists and summary descriptions of individual projects for construction, acquisition, repair, alteration and leasing. Although the projects proposed within each of these categories were listed in order of priority, no information was provided to ascertain or evaluate the basis used in the ranking.

Under the prospectus system, the public works committees authorize projects without knowing whether there will later be an appropriation sufficient to undertake them. In fact, some authorized projects remain unfunded for years, and some are never carried out at all. Given the ad hoc nature and unpredictable timing of prospectus proposals, it is next to impossible for either GSA or the Congress to devise rational public buildings budgets.

The committee's attention, by statute, is preoccupied with the consideration and approval of prospectuses. In the past several years, the committee has had over one hundred prospectuses pending before it. This responsibility leaves the committee little time for scrutiny and oversight of the public buildings program as a whole. The committee is not required to approve, nor is it furnished reports on the substantial work of the Public Buildings Service on projects costing less than $500,000.

The Congressional Budget Office estimated (in its report entitled "The Federal Buildings Program: Authorization and Budgetary Alternatives", June, 1983) that in the 1983 budget, for example, just over 50 percent of proposed new obligational authority for construction, repair, alteration, and leasing required no prior authorization for funding—because the estimated costs of numerous individual projects were less than $500,000, the threshold for requiring a project prospectus. When purchase contract payments, facility services, and program direction are accounted for in the total program, about two-thirds of the 1983 Federal buildings funding did not require authorization action. So long as the authorization process is not directly linked to the entire program, action by authorizing committees may reflect unrealistic program levels and a major part of the public buildings activity can escape review.

Moreover, prospectuses are brought before the committee at such an early stage of project development—prior to site selection, detailed building programming, or design—that committee approval is practically a blank check to the agency to carry out a project. Committee members can know little about the nature of a project when called upon to vote on it nor do they later receive a report on how, or if it was accomplished.

Even with the incomplete information they provide, the prospectuses reveal inconsistent policies and practices Federally constructed buildings are built to exacting, often grandiose standards that make them more expensive than even the best private buildings, while no qualitative standards at all seem to guide selections of buildings to be leased by the Government. No guidelines seem to exist for selecting locations for Federal offices so as to promote Government efficiency or provide convenient service to the public.

KEY PROVISIONS

S. 452 would replace the prospectus procedure with a number of measures that will permit the GSA to undertake long-range planning and permit the Congress to practice its proper role of oversight and policy formulation—divesting it of the housekeeping chore of deciding when a specific lease should be renewed, or a building's roof repaired.

Section 801 requires GSA to submit a public buildings plan to the Congress each year, including a 5-year projection of the Government's public buildings needs. In section 107, GSA is required to submit to Congress an annual report of its buildings operations. Together, these documents will help Congress and the Executive Branch plan, budget for and systematically review the public buildings program.

Title VIII establishes building authorization procedures much like those in use in the military construction program. It establishes an annual authorization for the entire public buildings program, and not just for specific buildings, so that Congress can oversee program management and establish priorities. Lump-sum authorizations are provided for minor projects, and major projects may be authorized for a full appropriation after design has been accomplished. This gives the public works committees and the full Congress the advantage of having detailed cost estimates prior to being called on to approve multimillion dollar projects. The procedure also affords the reconciliation process of a Senate-House conference, together with the constitutional safeguard of final action by the President, that goes along with full congressional approval of an authorizing bill.

Title IX repeals the Federal Buildings Fund and its associated system of Standard Level User Charges. This provision, along with the provisions of title VIII to establish an annual authorization process with long-run planning, constitute the major initiatives in this bill to "normalize" the public buildings program. Title VIII provides the program with a congressional authorization process comparable to that available to most other programs of the Federal government—an annual authorization bill. Title IX would return the public buildings program to the direct annual appropriations process, under which most other federal agencies and their programs function. Indeed, these titles could be characterized as the "GSA normalization" provisions.

Aside from eliminating some of the more problematic features of the current financing mechanisms, there are other strong reasons for wanting to alter the public buildings appropriations process. That the total annual budget of the Public Buildings Service is approximately $2 billion may be one of the better kept secrets of the Federal Government. The general lack of awareness of the size of the program is, in part, the consequence of the technical means used to record Federal Buildings Fund revenues and expenditures in the Budget. SLUC payments appear as a line item in the budget request of each Federal agency furnished space by GSA and are recorded only there as budget authority. GSA expenditures charged against the Federal Buildings Fund are registered as obligational authority, not budget authority, and have no direct impact on budget totals. Consequently, there is no focussed accountability in the U.S. Budget for the program costs of the Public Buildings Service. The display of budget authority in the form of disaggregated agency SLUC payments represents bookkeeping charges which bear no direct relationship to the Federal program being financed with the funds involved. A return to direct appropriations would permit full disclosure of the amount of budget authority required by the public buildings program and would allow the program to be evaluated on its own merits.

Title II establishes siting priorities that take into account the need to locate Federal offices where they can best carry out their responsibilities and, where appropriate, be most conveniently visited by the public. The title also establishes planning criteria for finding space for Federal agencies. It reinforces previous efforts by the committee to make sure that intensive use is made of the existing Government building inventory before space is sought elsewhere and it reflects the committee's longstanding efforts to have permanent Federal functions placed in Government-owned buildings. The policy of purchasing and adapting existing, and particularly historic buildings, established by Congress in the Public Buildings Cooperative Use Act of 1976, is clarified and strengthened.

In the past few decades, the quality of design of Federal buildings has been held in low repute by architectural critics. During the 19th century and well into this century, Federal buildings often ranked among the finest buildings the country produced, and they often led the way in architectural innovation. The buildings constructed during that period have served the Government and the people well. Many are still in active use and continue to be regarded by citizens as a welcome sign of local affiliation with the national government. They were built in the spirit in which in 1916, the chairman of the House Committee on Public Buildings and Grounds could state, "No youth or citizen ever looked upon a Federal building in which the business of his country was being conducted but that he became a better American."

Several provisions of the bill reported by the committee are intended to make such a statement appropriate to the buildings constructed or renovated under the bill. Title III establishes design criteria for Federal buildings. These criteria encourage high quality architectural design and at the same time dictate an end to extravagant Federal building guidelines that waste space and the taxpayers' money. Except in rare instances where monumental construction is justified, Federal buildings will meet commercial standards of durability and space utilization and be designed and built to enhance productivity and conserve energy. Title VI provides for a competitive method of selecting the private architects who design most Federal buildings. The competitions would emphasize the search for high quality and imaginative design. Title IV, by elaborating mixed use design standards, promotes the design of buildings that contribute to the economic and social betterment of their neighborhoods. In title I, the position of Supervising Architect is established to place at a high level in the Public Buildings Service an individual whose background and responsibilities will combine to support a drive for improved design quality.

Over the past 15 years, in successive Democratic and Republican administrations, the Office of Management and Budget has practically shut down the public buildings program. In the shortsighted pursuit of budget trimming, the OMB has forced a drastic curtailment of Federal office space ownership and a concomitant increase in leasing.

According to a report of the General Accounting Office (GAO Report LCD-80-7, October 17, 1979), from fiscal year 1966 to fiscal year 1979, there was no appreciable increase in Government-owned space while leased space increased by over 100 percent, from 44.6 to 93.3 million square feet. Annual rental payments of the GSA in the same period increased from $131 to $520 million. Lease payments in fiscal year 1984 account for over 41 percent of the public buildings budget, while construction and purchase funds account for 6 percent of the budget. For fiscal year 1980 the rental budget was $575 million; for fiscal year 1981 it was $680 million; for fiscal 1982, it was $722 million; for fiscal year 1983, it was $770 million; for fiscal year 1984, it was estimated at $880 million.

The leasing program is a captive of the forces of inflation, tight credit, and utility and property tax increases that characterize the private rental market. At the present rate, the rental bill will break the $1 billion mark in fiscal year 1986; and reach $2 billion in fiscal year 1993.

Twenty years ago, 82 percent of the Federal employees provided office space by the GSA were in Government-owned space. Now that figure is down to 51 percent. This turnabout in the public buildings program occurred in part because leasing has the short-term budgetary advantage of requiring a fraction of the outlay, in any given year, required to construct or purchase a building. In the interest of making annual budgets appear small, the OMB has systematically skewed the assumptions and procedures upon which the GSA makes its economic analyses of whether to lease or build in individual instances. When comparing building and leasing the

GSA performs a "present-value cost anaysis." This is sound practice, borrowed from private industry. In recent years, nearly all of those analyses have come down in favor of leasing.

A GAO report to the committee (GAO report LCD-80-61, June 20, 1980) explained why. One need look no further than the report's title: "GSA Lease Versus Construction Present-Value Cost Analyses Submitted to the Congress Were Inaccurate." Among other inaccuracies, GAO noted several that arose from OMB guidelines prescribing how GSA should compute the cost comparisons.

The GSA itself has now completed a study that makes the point more forcefully. The GSA studied comparable construction and lease projects in 126 geographic areas and demonstrated that, using the correct interest rate identified by GAO and appropriate inflation rates and other factors, "the evidence would support an economic decision to build rather than lease in most cases." Using the OMB requirements, however, "will almost always result in a lease decision."

The recently published study by the Congressional Budget Office ("Federal Buildings Program: Authorization and Budgetary Alternatives") confirms the GSA findings that "construction proves more economical than leasing most of the time—provided the real discount rate remains below 5 percent." Historically, the real interest rate of all Treasury borrowing has been around 2 percent.

The GSA stated that its studies indicate that a ratio of 80 percent federally owned space to 20 percent leased space would be the most cost-effective combination, and would satisfy the Government's need for leased space to accommodate temporary and changing Federal agency requirements.

Title VII of the bill addresses the leasing activities of the public buildings program. It is designed to enable the Government to realize the long-term economies available from placing an increased proportion of the Federal workforce in Government-owned buildings. It states that it is the sense of the Congress that long-term economies would be realized by providing that, within 10 years, no fewer than 75 percent of the Government's needs be met by Government ownership of space. A significant, recent space consolidation initiative of GSA is expected to affect the mix of owned to leased space, so that GSA believes even its own goal of 80 percent owned space may be reached without a substantial Federal building program. GSA is attempting to improve space utilization by reducing the amount of space per employee from an average of 166 to 135 square feet.

In view of the GSA study showing that it would be economical to place 80 percent of Federal employees in Government buidings and in view of the goals and initiatives of GSA, the target set in S. 452 is reasonable and attainable in the 10-year span.

SECTION-BY-SECTION ANALYSIS

SECTION 2—DECLARATION OF POLICY

Summary

This section states general policies to be followed in locating, designing, furnishing, and maintaining public buildings of the U.S.

Government. The buildings should contribute to the productivity and efficiency of Federal agencies and their employees, provide Government services throughout the United States in locations convenient to the people, preserve and advance the Nation's legacy of architectural excellence, and enhance commercial and cultural conditions in the vicinity of public buildings.

Discussion

The purpose of the public buildings program is to enable Federal agencies and their employees to carry out their responsibilities effectively and efficiently. For those Federal activities that serve the public directly, it is concomitant with the purpose to locate Federal offices at sites convenient to the populace they serve.

At the same time, the Government has an obligation to maintain the highest possible standards of architectural and design excellence, both in new construction and through adaptive use of distinguished existing buildings. Furthermore, Federal buildings have traditionally contributed, and should continue to contribute, by their location, design, and use, to the commercial and cultural development of the areas in which they are located.

While other provisions of the bill provide the specific means of implementing these policies, this section states them in a manner indicating the spirit in which the public buildings program is to be carried out. Too often in the recent past, the buildings built or leased for the United States have reflected an apparent attitude that the provision of workspace is an end in itself. Simply providing some quantity of square feet in which Federal employees and their clients—the people of the United States—can find shelter from the elements does not fulfill the requirements of a public buildings program. This short-sighted view overlooks considerations of quality, dignity, functionality, efficiency, or social utility, and is antithetical to the proper operation of the Government in the interest of the people.

TITLE I—GENERAL AUTHORITIES

SECTION 101—PUBLIC BUILDINGS AUTHORITIES OF THE ADMINISTRATOR

Summary

Section 101(a) provides the Administrator of General Services with sole authority to acquire, design, construct, lease, manage, maintain, repair, renovate, or assign and reassign space in public buildings, acting through the Public Buildings Service.

Section 101(b) ensures that certain authorities established by statute prior to the date of enactment of this legislation will not be superseded so that the heads of Federal agencies will continue to exercise these authorities to meet their public buildings needs.

Discussion

This section establishes the primary and exclusive authority of the Administrator of General Services, acting through the Public Buildings Service, to provide and manage leased and Government-owned space to meet the needs of the Federal Government. The scope of this authority as defined by this bill is described in section

101, section 113(14), and section 113(15). The latter two sections define public building and public buildings needs, respectively, and thus elaborate the range of facilities and needs subject to the Administrator's jurisdiction.

The rationale behind establishing the General Services Administration in 1949 as a central service agent for the Government is still valid. There are economies to be realized in vesting one agency with responsibility for housekeeping functions, such as building acquisition and maintenance, and allowing that agency to build up the expertise and scale of operations that will minimize the cost and time necessary to carry out those functions.

However, since the establishment of GSA, other civilian Federal agencies have acquired separate construction, leasing, or building management authority. Some of these authorities have been acquired by delegation from GSA, and sections 104 through 106 and 107(a)(6) of this bill have been drafted with the intent of controlling such delegations. Other building authorities have been acquired through legislation. Some agencies have built up their own building management staffs without apparent sanction by either the Congress or the GSA.

Section 101(a) compiles building construction and management authorities currently scattered in various sections of the Public Buildings Act of 1959 and the Federal Property and Administrative Services Act of 1949. It does not repeal the provisions that stand in the latter act. The intent of this section is to establish in the Public Buildings Service of the GSA the centralized and impartial decision-making authority necessary to bring some order into this uncontrolled situation. It is not necessary for the GSA to second-guess the expertise of other agencies to carry out this responsibility; it need only assert its own general expertise in office siting, design, layout, and management.

There are exceptions to the Administrator's authority and these are stated both in terms of existing statutory authorities of other Federal agencies in section 101(b) and by listing specific exemptions from the definition of "public building" in section 113(14). The primary purpose of these exceptions is to preserve arrangements outside of GSA's jurisdiction for the provision and management of space when highly specialized program needs are being served. Thus buildings excluded from GSA's jurisdiction tend to be technically-oriented special-purpose facilities, not standard office buildings housing agency administrative functions. Examples of such exceptions include the Mint and the Bureau of Engraving and Printing of the Department of the Treasury, installations of the Coast Guard and the Federal Aviation Administration, research and testing facilities of the National Aeronautics and Space Administration, facilities of the Public Health Service, laboratories and technical installations of the Department of Energy, and Federally Funded Research and Development Centers associated with the National Science Foundation.

SECTION 102—ESTABLISHMENT OF THE PUBLIC BUILDINGS SERVICE AND POST OF COMMISSIONER OF PUBLIC BUILDINGS

Summary

Section 102 establishes in law the Public Buildings Service within the General Services Administration and designates as head of the PBS a Commissioner of Public Buildings who is to be appointed by the President with the advice and consent of the Senate and compensated at level IV of the Executive Schedule.

Discussion

The Public Buildings Service has been a component of the General Services Administration almost since the inception of GSA, but has never been recognized statutorily. The post of Commissioner of Public Buildings is long-established also, but incumbents have heretofore been appointed and removed by GSA Administrators.

Currently within GSA, only the Administrator is subject to the nomination and confirmation process. The Public Buildings Service accounts for half of the GSA's budget and employees. The size and nature of the functions carried out by PBS warrant the President's and the Senate's attention to the appointment of the Commissioner.

There has been a frequent turnover in Commissioners in recent years: the current incumbent is the seventh in 7 years. This turnover has made it difficult for the PBS to develop and implement coherent and consistent policies and standards or to undertake long-range planning. It has also diminished morale within the Service.

The committee considered but rejected establishing a term of office for the Commissioner. It is essential that there be a harmonious relationship among the President as chief executive officer of the Government, the GSA Administrator, and the PBS Commissioner.

The position is essentially a professional one, best filled by someone with experience in building policy, planning, construction or management. Administrative provisions should be made for incumbents selected from the civil service to regain tenured status at the conclusion of their service in the post.

The compensation provided, level IV of the Executive Schedule, is one level below that of the Administrator.

SECTION 103—ESTABLISHMENT OF THE POST OF SUPERVISING ARCHITECT

Summary

Section 103 establishes within the Public Buildings Service the position of Supervising Architect primarily to supervise all design activities of the PBS. The Supervising Architect is to be appointed by the Administrator at level V of the Executive Schedule.

Discussion

The position of Supervising Architect is a historic one. From the 1840's until 1939 the position existed in the Treasury Department and its incumbents were chiefly responsible for the high standards of quality in Federal architecture maintained during that period.

The committee does not consider the establishment of this position to be a simple renaming of the existing post of Assistant Commissioner for Design and Construction. The Supervising Architect is to be the second-ranking official of the PBS, with responsibility for supervising in-house and contracted design services, operating design competitions, rendering design judgments related to siting, construction, renovation, acquisition, and leasing decisions, and for conducting building research and evaluation. Incumbents should be recognized experts on architecture and related design areas.

The level of compensation provided, level V of the Executive Schedule, is one level below that provided for the Commissioner of Public Buildings.

SECTIONS 104, 105, AND 106—DELEGATION OF AUTHORITIES

Summary

Section 104 provides that any authorities described in section 101 of the bill that have been delegated by the Administrator to another Federal agency prior to the date of enactment of this bill are to be revoked and vested in the Administrator on the 120th day after the effective date of the act unless, prior to that day, the Administrator has delegated the authority in accordance with section 105.

Section 105 provides that notwithstanding section 205 of the Federal Property and Administrative Services Act of 1949, which authorizes the Administrator to delegate his authorities, the Administrator may delegate all or a portion of his authorities under this bill to the head of another Federal agency, but only with respect to the public buildings needs of that agency.

Section 106 provides that the head of any Federal agency delegated authorities under section 105 is to exercise those authorities in conformance with the provisions of this bill. The heads of those agencies are to submit the information required in section 107 to the Administrator for inclusion in his records and reports in lieu of submitting a separate report.

Discussion

Criteria have not heretofore been developed to determine when the public buildings authorities of GSA should be delegated to other agencies. GSA also does not regularly review those delegations that have previously been made to determine if they should remain in force. Section 104 would require GSA to review those delegations that were made before enactment of this bill.

Section 105 authorizes the Administrator to delegate authorities accruing to him under this bill, but he may not delegate to another agency the authority to perform building functions for a third agency.

Section 106 is intended to insure that the policies established by this bill are carried our consistently throughout the government. Agencies that have received delegated authorities in the past have ignored such government policies as have been established under law or GSA regulation. Moreover, their exercise of such authorities has usually escaped the notice of the committees of the Congress that oversee their operations, and has evaded the oversight of the committees charged with oversight of the public buildings program.

Agencies with delegated authorities would not have to submit separate annual reports to the Congress; rather, reports on the activities would be compiled by the Administrator and included in his annual report on public buildings activities. The committee does not intend that these agencies would conform to the budgetary authorization provisions of title VIII of this bill. The agencies would carry out delegated responsibilities under their own budgetary authorities. The Administrator might well require, as a condition of delegating authorities, that the agencies submit to him a plan, similar to that required in section 801 of this bill, outlining the agencies' proposed public buildings activities for the succeeding fiscal year.

SECTION 107—REPORT TO THE CONGRESS

Summary

Section 107(a) requires the Administrator to submit a report to the Congress on or before February 1 of each year describing activities undertaken, directly by him, or under authorities delegated pursuant to section 105 of the bill, to meet the public buildings needs of Federal agencies in the preceding fiscal year. The report is to include at a minimum—

(1) an inventory of all public buildings, including for each building its location and the amount of space and number of employees assigned to each Federal agency;

(2) an inventory of locations of Federal agency offices in leased buildings, including for each leased location its annual leasing costs, total expected leasing costs over the remaining term of the lease, and the amount of space and number of employees assigned to each Federal agency;

(3) a list of all construction and renovation projects completed and in progress and the degree of progress toward the completion of each;

(4) a list of all leases and lease renewals executed;

(5) a list of construction, acquisition, and renovation projects the cost of which have exceeded, or are expected to exceed, the maximum cost set forth in any annual authorization under the bill;

(6) a list of all delegations of authority made pursuant to section 105 of the bill;

(7) a report of activities undertaken pursuant to—

  (A) title IV (cooperative use) and V (art-in-architecture) of the bill;

  (B) section 210(a)(6) of the Federal Property and Administrative Services Act of 1949, (which permits GSA to carry out reimbursable services for other agencies) or by transfer of funds from any Federal agency; and

(8) a discussion of achievements and problems in carrying out provisions of this bill and in meeting the public buildings needs of the Government.

Section 107(b) requires the Administrator to collect and maintain such information as may be necessary to keep the Congress informed of the conduct of the Public Buildings Service and to manage activities required under the provisions of the bill. Within 1 year after enactment, the Administrator is to assure that information is available on—

(1) for each public or leased building—

(A) the amount of vacant space,

(B) the amount of space leased out under the Public Buildings Cooperative Use Act,

(C) buildings operations costs,

(D) needed repairs and renovation,

(E) energy consumed,

(F) whether it is fully accessible to handicapped persons,

(G) the percent of the building leased by the Government,

(H) the total amount of funds that have been expended in improvements or alterations to each leased building, and

(I) the term of any leases in effect and their expiration dates.

(2)(A) All contracts in effect for architectural, engineering, construction, maintenance, protection, research and other services, including for each the name of the contractor, the services performed, and contract term and price, and

(B) the space utilization rate for each Federal agency.

Subsection (c) directs that the head of each Federal agency possessing authorities with respect to the acquisition, design, construction, leasing, management, maintenance, repair, renovation, or assignment and reassignment of space in buildings of that agency shall annually submit a report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House. Such reports shall describe activities in the preceding fiscal year to meet the public buildings needs of the agency.

Discussion

These provisions are designed to furnish the Congress with essential oversight information on the status of the public buildings program. The report is timed to arrive so that its data can be used by the Congress in evaluating the proposed annual buildings program to be submitted by GSA under title VIII of the act. This information is also needed to carry out routine oversight and to answer frequently recurring questions of Senators and Representatives about the public buildings program.

It is not the intent of this section to require GSA to prepare an expensive, glossy report. All of the information requested in the report having to do with inventories of public and leased buildings is currently available at GSA; most of it is routinely compiled for the use of GSA administrators. Some of the information is contained in computer data banks. The committee encourages GSA to submit the information in computer printouts or other convenient formats. Only paragraphs (7) and (8) require a narrative discussion.

In the interest of keeping to a minimum the amount of time and expense spent on reporting, some information is required only to be maintained at GSA. This information is not required for the annual congressional review, but must be available upon request or in the course of congressional oversight.

Moreover, the information required under subsection (b) is of a detailed nature, and should be particularly useful to GSA management. Cost figures on individual buildings, amount of vacant space, building energy consumption, building repair needs, and lists of Public Buildings Service contractors are critical to the businesslike conduct of the public buildings program. Under the provisions of section 109 of the act, the Congress would be able to acquire any of this information by request through the public works committees.

Some of the information required in subsection (b) is not currently maintained at GSA. The detailed cost figures and repair backlogs are not, for example, but the General Accounting Office has recommended that they be collected, and GSA is starting to do so. This information is critical to assessing building conditions and performance.

Subsection (c) requires each agency possessing separate buildings authorities to report annually to the public works committees regarding their activities in the preceeding fiscal year.

With the proliferation of buildings authorities, the Congress and the executive branch lose sight of the total public buildings program. Both the magnitude and direction of the program is blurred. The purpose of subsection (c) is to give the Congress infomation on the overall program in a more unified fashion. Nowhere in the Congress is the program as a whole examined or available for examination. Such reports are necessary for improved oversight of the public buildings program of the Government as a whole.

It is not expected that each agency will devote substantial resources or personnel to prepare such reports. Information prepared for budgetary or other purposes should suffice.

SECTION 108—CONTRACTOR CERTIFICATIONS

Summary

Section 108(a) requires that, prior to executing any lease or other contract in excess of $10,000, the Administrator shall obtain a certification from the owner of the space to be leased or other contractor. Subparagraph (1) requires such certification to include statements that the owner or contractor: (A) has no conflict of interest with the United States in his capacity as a lessor or contractor and (B) has not promised or received a bribe.

Subparagraphs (2) through (4) require that the certification also state whether the owner or other contractor has been debarred or suspended from award of public contracts; has defaulted on a public contract; or has been convicted of or is currently under indictment for certain criminal offenses or violations.

Failure to complete the certification required under this provision would disqualify an owner or other contractor from receiving a contract or lease award. Falsification of the certification would be subject to penalty of law provided under section 1001 of title 18 of the United States Code.

Subsection (b) states that in the event an owner or other contractor replies in the affirmative to any of the statements required pursuant to subparagraphs (a)(2) through (a)(4), then the Inspector

General of GSA shall be notified and no lease or contract shall be awarded to that owner or contractor: (1) until the Inspector General advises the contracting officer on the suitability and integrity of such owner or contractor; (2) until the contracting officer submits a written report as to why the lease or contract may be awarded notwithstanding the affirmative certification; and (3) unless the appropriate Regional Administrator or GSA approves in writing the lease or contract award, notwithstanding the affirmative certification.

Subsection (c) directs the written approval of the Regional Administrator required under subsection (b) may not be delegated to a subordinate official.

Subsection (d) requires that in the annual report to the Congress—submitted pursuant to section 107 of this legislation—GSA must supply the name of each principal owner of blocks of leased space of 50,000 or more square feet.

Discussion

This provision is similar to a GSA regulation issued on April 17, 1980, for the Federal Supply Service. The regulation was written by the Office of the Inspector General of GSA in coordination with the Office of Acquisition Policy. It is utilized for contractual solicitations for goods and services when the contract exceeds $10,000. This provision expands the applicability of the regulation to solicitations of the Public Buildings Service.

Although section 108 is designed to afford a maximum degree of legal protection to the Government when it enters into contractual arrangements such as leases, care has been taken to prevent automatic and permanent debarrment of firms and individuals on the basis of statements made in the required certification. Subsection (b) establishes a process through which the current integrity and suitability of a contractor can be determined even though the certification has revealed the existence of problems in the past.

SECTION 109—PROVIDING INFORMATION AND INSPECTOR GENERAL REPORTS TO THE CONGRESS AND THE PUBLIC WORKS COMMITTEES

Summary

Section 109 requires the Administrator to keep Congress continually informed on public buildings policies and activities within the purview of this bill and to make available to the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation on request, and in such manner as may be necessary to safeguard individual rights or the conduct of criminal investigations, any document, material, information, or report under his jurisdiction.

Paragraph (b) of section 109 ensures that reports transmitted to appropriate committees of the Congress in accordance with sections 5(b) and 5(d) of Public Law 95-452 (the Inspector General Act of 1978) that pertain to problems, abuses, or deficiences in the public buildings program, are transmitted to the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation.

Discussion

Although there has been improvement, the committee has had difficulty in the recent past in obtaining from GSA a response been to direct, pointed requests for information on public buildings policies and activities. For example, it took close to a year for GSA to provide the committee with copies of its printed administrative regulations and guidelines. The committee still finds that major policy changes and program initiatives are implemented without notice to the committee. While management actions are within the purview of the Administrator, the committee needs to be informed about them so that it can carry out its oversight function and ensure that statutory policies are properly implemented, and the public interest protected.

It is not the intent of this section to override any constitutionally founded rights to withhold information, including the doctrine of executive privilege, or to require the production of documents or information the disclosure of which would hinder any criminal investigation or jeopardize the national security.

SECTION 110—LAW ENFORCEMENT AGENCIES' JURISDICTIONS

Summary

Section 110 authorizes GSA to partially relinquish sole police jurisdiction over certain Federal buildings.

Discussion

Prior to 1941, the Federal Government was required to secure sole police jurisdiction as a condition for construction or acquisition of a public building. A substantial number of properties still under the control of GSA were acquired before 1941 and are subject to this requirement of exclusive police jurisdiction. In some instances, this condition has created Federal enclaves where no visable police protection is present, because local law enforcement officials have no authority to enforce laws. The partial recession of this jurisdiction would permit Federal officials to continue to protect property while also allowing local police officials to make arrests and perform routine police duties.

SECTION 111—CONTRACT INTERPRETATION AND APPROVAL

Summary

Section 111 establishes that the Administrator is to be responsible for the interpretation of all contracts entered into on behalf of the Government to carry out the purposes of the bill, and he is to be responsible for the approval of materials, workmanship, and services supplied under contracts, approval of changes in contracts, certification of vouchers for payments, and final settlements.

Discussion

This section establishes the Administrator's authority to interpret contracts and approve work done under contract pursuant to this bill. The section is adapted from a provision of the existing Public Buildings Act of 1959.

SECTION 112—PRESERVATION OF CERTAIN AUTHORITIES IN THE CENTRAL INTELLIGENCE AGENCY ACT OF 1949

Summary

Section 112 states that nothing in this bill is to be construed to affect the authorities granted in section 403f, 403g, or 403j of title 50, United States Code.

Discussion

This section clarifies the effect of this bill on three sections of the Central Intelligence Agency Act of 1949. Those sections permit the CIA to lease buildings in the United States and overseas to carry out its duties and permit the Director of the CIA to withhold information to safeguard the identities of CIA employees and to prevent disclosure of classified information. Pursuant to the cited sections, certain information otherwise required under section 107 may not be made available to the GSA Administrator or the public works committees of the Congress. CIA offices, the identity of which may be made known without harm to the national security interests of the United States, would fall within the jurisdiction of the bill. CIA authority to lease space in the United States would be exercised only in the case of those offices that would fall under the exception contained in section 704(2) of the bill, i.e., those offices "that it would be inappropriate to locate . . . in public buildings or in other facilities identified with the United States Government."

SECTION 113—DEFINITIONS

Summary

This section contains definitions of significant terms.

Discussion

The term "Administrator" refers to the Administration of General Services.

The term "Federal agency" is essentially the same as that in the existing Public Building Act: it encompasses executive agencies, Government corporations, and legislative and judicial establishments, except for the Senate, the House of Representatives and matters under the Architect of the Capitol.

The term "office" is used to refer to the component parts of Federal agencies and other public and private organizations (such as bureaus, divisions, branches, etc.), and is also used, simultaneously or alternatively, to refer to the buildings or spaces in which the work of the components is carried out. The term in the latter meaning can signify all forms of administrative and public service activities.

The term "officers and employees of the Government" includes most appointed, civil service, and military employees of the United States. The term is used in section 702 of the act to refer to Federal workers provided workspace under this act.

The term "locality" is adapted from the definition of "units of general local government" used in "Title VIII—Urban Land Utilization" of the Federal Property and Administrative Services Act of 1949, as amended. The term, used in sections 204 and 303 of this act, refers to the land areas governed by the units of general local government listed in the definition (cities, counties, towns, parishes and villages). Such areas vary widely in size and population, and in some cases, an area that might be thought of as a single locality for the purposes of sections 204 or 303, might be governed by more than one unit of general local government. In such cases, the Administrator should use his discretion and consult with local officials in arriving at a determination of what constitutes the locality.

The term "geographical area" is defined (for the purposes of section 303) as an area encompassing a population of no less than one million persons, except in the case of a state or territory having a population of less than one million persons it means the State or territory.

The term "acquire" or "acquisition" includes those actions, such as purchase, condemnation, donation and property exchange which give the government a permanent interest in real property; it specifically excludes leasing. This distinction is significant in authorizing appropriations and elsewhere throughout the act, since special procedures and limitations apply to leasing.

This term also gives GSA authority to acquire less than full interests (such as easements) in real property, but leasing is specifically excluded from the permissible less-than-full interests. It is occasionally necessary for GSA to acquire easements to assure access to Federal property or to run utility lines.

Finally, the definition of the term provides GSA with authority to pay for options to purchase property. Payment for purchase options is not permitted under current law, as that law has been interpreted by the GSA general counsel, relying in part on decisions of the Comptroller General in similar circumstances. This device could be of significant use to GSA in expediting its conformance to the requirements of the act for increasing Federal ownership of office space.

The term "renovation" is used to distinguish major changes generally involving architectural design from technical alterations alone. The committee expects to review proposals to extend the use and life of a public building more closely than proposals only having to do with providing needed repairs, such as roofing, replacing mechanical equipment, etc. No clear line can be drawn between these types of projects, since many renovation projects involve mechanical improvements, as well, and since some major repair proposals in effect presuppose extending the life of a building. The committee expects GSA to make case by case decisions in determining whether a project is a renovation (and subject to the design competition provisions of section 602 as well as the reporting requirements of section 107). The recently completed rehabilitation of the Old Post Office Building in Washington, D.C., is an example of what the committee intends by the term "renovation."

The term "historic, architectural, or cultural significance" is defined as in the existing Public Buildings Cooperative Use Act of 1976. The definition encourages GSA to look beyond those buildings listed on the National Register of Historic Places when it seeks out old buildings that could be suitably adapted to Federal use.

The term "handicapped person" is intended to encompass a wide range of physical impairments, including ambulatory, sight, and hearing impairments.

The term "fully accessible" as used in section 307, clarifies the accessibility standards of the Architectural Barriers Act of 1968.

The term "public building" is revised slightly from the definition of the term in the Public Buildings Act of 1959. It defines those buildings for which GSA is responsible, and it also delineates those for which GSA is not responsible, chiefly by describing those under the jurisdiction of other agencies. The latter are most notably: buildings on the U.S. Capitol grounds, defense installations, buildings on national parklands, VA hospitals and associated facilities, nuclear and other power projects, facilities of the TVA, and Postal Service buildings.

The term "public buildings needs" is generally used to refer to the Administrator's authority, delineated in section 101, to provide government agencies and offices with working quarters, whether government-owned or leased. The definition conforms and limits this authority to the limits of GSA authority described in the definition of "public building," e.g., GSA is not to locate, design, build, or lease for the Postal Service, TVA, etc.; TVA will continue to provide for all of its own building and leasing needs directly in accordance with the provisions of the TVA Act of 1933; the provisions of titles II and VII also do not apply to it, either. It also authorizes GSA to consider the need for mixed-use space in planning and designing public buildings.

The term "National Capital region," used in section 201 of the act, conforms to its definition in the National Capital Planning Act of 1952, as amended, and includes the District of Columbia and the counties of Maryland and Virginia generally considered to be in the Metropolitan Washington area.

SECTION 114—REPEAL OF THE PUBLIC BUILDINGS ACT OF 1959

This section repeals the Public Buildings Act of 1959, which this act would replace in its entirety. It is not the intent of this section, through repeal of the Public Buildings Act of 1959, to reinstate into law any of the provisions of law repealed by that act.

TITLE II—LOCATIONS FOR FEDERAL AGENCIES OFFICES

SECTION 201—GENERAL CRITERIA FOR LOCATING FEDERAL AGENCY OFFICES

Summary

Section 201(a) states that headquarters offices of each department and major independent agency shall be located within the National Capital region in conformance with the National Capital Planning Act of 1952, as amended, unless otherwise specified by act of Congress.

Section 201(b) requires regional, district, area, or local offices of Federal agencies to be located conveniently with respect to residential populations they serve or other governmental and private offices with which they must maintain continuing and frequent physical communication.

Section 201(c) requires Federal offices—other than those located pursuant to subsections (a) or (b), or that otherwise must be located close to specific governmental or private offices or in specific geographic locations in order effectively to carry out their responsibilities—to be located throughout the United States generally in proportion to the geographic distribution of the Nation's population.

Discussion

Subsection (a) requires the headquarters offices of executive departments and major independent agencies to be located in the National Capital region, unless otherwise specified in law. The clear intent of the Founding Fathers was to establish a centralized seat of government. Only the headquarters offices of the agencies are required to be in the Washington area; their major bureaus and administrations may be headquartered outside the National Capital region if the agency head so directs. Locations within the National Capital region are to be determined in conformance with plans and and review procedures of the National Capital Planning Commission, established by the National Capital Planning Act of 1952.

Subsection (b) requires regional, district, area, or local offices of Federal agencies to be located within the geographical areas they serve or in proximity to the populations or organizations with which they continually do business. The purpose of this provision is to make clear that the primary consideration in locating Federal offices is to find sites that best help the offices carry out their responsibilities. It goes without saying that a regional office must be located within its region; within that region, it should be located where regional officials of the agency can most easily and economically travel to outlying Federal or private activities, and where those citizens or concerns that most frequently need to visit the regional office can most easily and economically travel to it. A local social security claims office should be located centrally with respect to the population from which it draws most of its claimants. It might be a storefront office in a residential neighborhood; it should be located near a public transportation line, where possible. A local Occupational Safety and Health Administration office may need to be in or near the industrial section of a metropolitan area. The committee intends that GSA and the agencies involved should consult on such locations and undertake surveys, if necessary, to determine what locations can best serve the public most directly concerned, taking into account the need for face-to-face as opposed to electronic communication, and the availability of public transportation.

Subsection (c) provides that Federal offices, other than Washington headquarters, regional and local offices, and the like, should be distributed throughout the United States generally in proportion to the geographic distribution of the nation's population. Offices that have nationwide responsibilities and research centers do not generally require particular geographic locations to carry out their duties. This section requires these Federal activities to be spread evenly throughout the nation. The committee is concerned about testimony it received indicating that, from 1966–76, Federal offices were shifted among regions of the country disproportionately to gains and losses in population in those regions.

There is no centralized authority at present to review decisions of agencies to move offices from one city or region to another, and there are no administrative guidelines. GSA Administrators have apparently taken the view that they cannot second-guess the preference of an agency for shifting its offices. Some agencies apparently shift offices according to the preferences of its executives for living in certain sections of the country. It is the intent of the committee that GSA should exercise greater review and control over these location and relocation decisions, since the decisions directly affect the composition and location of public buildings needs. However, the provisions of the act apply equally to agencies delegated authority by the Administrator (section 106 of the act), and whether or not GSA exercises review over these decisions, most Federal agencies are required to abide by the criteria of this section.

The committee recognizes that some research centers, such as those involved in solar or water power studies, cannot be located without regard to climatic or topographical factors. Even in these cases, there are normally several locations that are equally satisfactory, and GSA and the agencies should make every effort to distribute these activities throughout the nation, too.

SECTION 202—FURTHER CRITERIA FOR LOCATING FEDERAL AGENCY OFFICES

Summary

Section 202 requires the Administrator, after conforming with section 201, to consult with local officials and take into account certain factors in locating Federal agency offices:

(1) the costs, including relocation and operating costs, of proposed locations;

(2) in the case of any office located in a standard metropolitan statistical area, the feasibility and desirability of a location in the central business district of a city within that area;

(3) the proximity of existing or planned public transportation facilities;

(4) the proximity of public amenities and commercial facilities; and

(5) the availability of existing or planned housing adequate to the needs of present and prospective Federal employees and available on a nondiscriminatory basis.

Discussion

The section is concerned with specific location decisions to be made once general locations have been determined following the criteria established in section 201. Since each such particular decision must take into account the unique characteristics of a locality, this section only suggests consideration of general factors, with the weight to be given to each to be judged on a case-by-case basis.

Proposed locations or relocations should be assessed in terms of their comparative costs so that final location decisions are as cost effective as possible.

The section indicates a preference for locations in central business districts of cities, all other things being equal. In most metropolitan areas, there is a central business district which serves as the major employment and commercial center of the area. Where this is so, it is usually logical for major Federal offices to be in this area, too. In some cases, however, considerations of costs, or of service to a public clientele, or the mission of the Federal office, or other factors akin to those discussed in section 201, may dictate a location outside the central business district. Similarly, those offices that conduct hazardous activities or that require a campus-like setting may have to be located outside of a downtown area.

The location of major Federal offices in a metropolitan area will often be of great importance to local development plans. GSA and the other Federal agencies involved in a location decision should consult with local elected officials throughout the metropolitan area early in the Federal office planning process. While the Federal Government should make every attempt to locate its offices so that they conform with local development plans, the primary factor to be considered in locating Federal offices is to secure sites that best help the officers carry out their responsibilities.

Federal offices are to be located near existing or planned public transportation factilities, such as bus lines and rapid transit stops, both to make it convenient for the public to visit the offices, and to make it convenient for Federal employees to get to and from work with a minimal expenditure of fuel.

To maintain Federal employee morale and job satisfaction, Federal offices should be located near parks, plazas, or recreation areas, and near concentrations of stores and restaurants.

Federal offices should be located, wherever possible, near or conviently accessible to fair housing markets. The converse is also ture: generally, Federal offices should not be located in areas where housing is not available on a nondiscriminatory basis. Moreover, the composition of the present and projected Federal workforce should be considered, so that Federal offices are located near housing markets that can adequately meet the needs of the emloyees given their income levels.

In the past eighteen years, three successive presidential executive orders have attempted to establish location policies for Federal offices in conjunction with broad Federal urban policies. The committee has attempted in this section to establish general criteria that can stand scrutiny over the long run. Within this general legislative framework, presidential administrations may respond to currently perceived problems.

SECTION 203—PROVIDING SPACE FOR FEDERAL AGENCY OFFICES

Summary

Section 203 establishes policies and priorities to be followed by GSA in responding to office space needs. GSA is to:

(1) see if needs can be met in whole or in part through more productive use of existing space;

(2) prior to acquiring, constructing, or leasing space in any other building locate offices—

(A) in existing public buildings, giving first priority to utilizing fully, by renovating if need be, those public buildings of historic, architectural, or cultural significance; and if public building space is not available, then,

(B) in buildings of historic, architectural, or cultural significance acquired and renovated if need be, unless use of such space would not prove feasible and prudent taking into account cost, expected date of occupancy, and the potential for the conservation of energy, compared with construction of a public building, and if such building space is not available, then

(C) in existing buildings acquired and renovated if need be, or in new buildings constructed under the provisions of this bill, and if such building space cannot be made available in time to meet urgent public building needs then,

(D) in building space leased in accordance with the provisions of title VII of this bill, giving first priority to leasing space in buildings, of historic, architectural, or cultural significance, unless cost or energy conservation criteria would make such a decision imprudent.

Discussion

This section establishes priorities to be followed in securing space to meet the public buildings needs of Federal agencies.

Top priority is assigned to reviewing agencies' space requests to determine if they can be met without acquiring additional space. If GSA applies its expertise in space planning, it should be able to demonstrate ways in which an agency can get more intensive use of the space it already occupies: GSA officials have adopted a new policy to improve space utilization by reducing the average number of square feet occupied per employee and thus make Federal agencies aware that space is a scarce and valuable resource. Moreover, GSA has cited numerous instances of Government-leased space being left unoccupied for inordinately long periods of time—nearly 2 years, in one instance. The Public Buildings Service budget request for fiscal year 1984 notes that there are twenty-two million square feet of vacant office space, both leased and Government-owned, in the GSA inventory. GSA is taking steps to fill up this vacant space. This section requires that space requests be filled from this unoccupied inventory before any other space aquisition or leasing actions could be undertaken.

If space requests cannot be met completely by intensifying the use of existing space, the section requires that GSA first take steps to expand the inventory of Government-owned space by renovating existing public buildings. By adding to public buildings, or altering their interior layouts, space can be added relatively quickly and without the expense and time of acquiring a new site. Among public buildings, those of historic, architectural, or cultural significance are to be given first priority for renovation.

Priority is next accorded to acquiring and renovating if necessary, buildings of historic, architectural, or cultural significance that are in private ownership. This policy is one that was endorsed by the Congress in the Public Buildings Cooperative Use Act of 1976, but which GSA appears to be unable or unwilling to implement. The committee received testimony from the Advisory Council on Historic Preservation, which was charged in the 1976 act to recommend suitable historic buildings to GSA for conversion to Federal office use, that not a single one of the Advisory Council's recommendations to the GSA has been implemented. Of seven formal recommendations, four have been rejected by GSA, and three are being held in abeyance. The Advisory Council reported that the economic and structural criteria which GSA used to judge the suitability of the recommended buildings were far more stringent than those used by private businesses.

In light of this report, the section has attempted to clarify the priority to be accorded the acquisition and renovation of historic buildings. The section retains the language of the 1976 act requiring the use of such buildings unless their use "would not prove feasible and prudent." This language is borrowed from section 4(f) of the Department of Transportation Act and has been interpreted, administratively and judicially, as creating strong presumption in favor of the desired action. Section 203(2)(B) requires that the determination of whether it would not be feasible and prudent to use an historic building take into account:

(1) cost (some cost premium in the short-run might well be justified in view of the long-run benefits of savings a landmark building and the difficulty of quantifying benefits that often accrue from the development spark that one building renovation often gives off to its surrounding area);

(2) expected date of occupancy (renovation projects, from start to completion, take much less time than constuction of totally new structures); and

(3) the potential for the conservation of energy (including the imputed energy saved by re-using the building materials incorporated in the historic building and not causing the manufacture of new materials).

It is due to the consideration of at least some of these factors that profitmaking businesses have created a boom in building renovation. The committee directs the GSA to prepare—jointly with the Advisory Council on Historic Preservation, a Federal agency which has issued reports on the economics and energy-saving aspects of historic preservation—guidelines for making the decisions required in paragraphs 203(2)(B) and 203(2)(C).

Paragraph 203(2)(C) establishes as the next ranking priority in meeting Federal space needs, the acquisition and renovation of other existing but nonhistoric buildings and the construction of new buildings. Acquisition-renovation and new construction are to be accorded equal consideration at this level of priority.

Finally, to meet urgent public buildings needs that cannot be met by any of the above actions, space can be leased. GSA is to give first priority to leasing space in buildings of historic, architectural, or cultural significance, subject to the prudent consideration of cost and energy conservation criteria.

According to the Advisory Council on Historic Preseveration and others, GSA has been energetic and successful in leasing blocks of space in historic buildings. A Government lease in such buildings can often help the private owners secure the financing necessary to renovate them, and the Government is assured of higher quality office space than it often occupies.

SECTION 204—CRITERIA FOR CONSOLIDATING FEDERAL AGENCY OFFICES

Summary

Section 204 provides that Federal agency offices in a locality may be consolidated to the extent justified by the need for immediate physical proximity and by anticipated cost savings—

(A) first, within and among the offices of a single Federal agency,

(B) second, within and among the offices of Federal agencies carrying out related functions, and

(C) third, within and among other Federal agency offices, and, generally so that resulting public buildings needs may be met by using existing public buildings, by constructing or acquiring buildings similar in scale to buildings predominating or planned for their surroundings, or by acquiring two or more reasonably proximate buildings, particularly buildings of historic, architectural, or cultural significance.

Discussion

The section would effect a change from existing consolidation practices of GSA. Offices of Federal agencies that have little or nothing to do with each other are frequently consolidated into one building—either leased or Government owned—on the asserted, but unproven assumption that the consolidation will achieve administrative and cost efficiencies. The GSA has undertaken no studies to estimate the nature or magnitude of these economies. For example, the Forest Service and the Secret Service have little direct contact with each other, nor do visitors to the one frequently need to do business with the other on the same day, but their offices may well be forced into the same federally owned or leased building.

The building space requirements that result from these mass consolidations often impel the Government to restrict competitive bidding for leases to only a few exceptionally large buildings. The supposed need for mass consolidation is also often cited as a reason that the Government cannot lease or purchase several small buildings for its use. In one instance, GSA rejected a recommendation for purchasing several historic buildings located on the adjoining corners of a street intersection on the ground that Federal offices all had to be in one building. When buildings are built to meet these space "requirements" they are frequently so large they disrupt the scale of their surroundings and contribute to an image of overbearing Government.

SECTION 205—APPEALS OF GSA LOCATION DECISIONS

Summary

Section 205(a) provides for an appeal to the Office of Management and Budget by the head of a Federal agency if the agency head determines that the location assigned by GSA to an office of 50 or more employees would be deleterious to the efficient accomplishment of the office's responsibilities. The Director of OMB is to review the GSA decision within 30 days and report the findings of the review within 10 days to the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation.

Section 205(b) provides for an appeal to the Senate and House public works committees by the Director of the Administrative Office of the U.S. Courts if he determines that the location assigned by GSA to an office of the judicial branch would be deleterious to the efficient accomplishment of the office's responsibilities.

Discussion

Section 205 (a) establishes in law a procedure similar to one informally maintained in the executive branch. The Office of Management and Budget is a component of the Executive Office of the President. It has the view of overall Government operations and interests necessary to be able to review agency missions and balance the needs of individual agencies against the policies and inventory of the public buildings program. The section establishes a strong presumption in favor of the GSA Administrator's determinations, in order to discourage frivolous requests for review of GSA decisions, and to clarify the role of the OMB Director, and limit the scope and complexity of his review responsibilities.

At present, while agencies do appeal location actions to OMB, the Congress is not informed of the existence or resolution of these controversies. The section would require OMB to notify the public works committees of the Congress within 10 days of a decision on a location appeal.

Section 205(b) provides for a direct appeal of location decisions to the public works committees by the Federal courts rather than through the executive branch of the Government.

SECTION 206—EFFECT OF THE BILL ON EXISTING AGENCY LOCATIONS

Summary

Section 206(a) provides that the bill shall not be construed to require the relocation of any Federal agency office from its location on the date of enactment of the bill.

Section 206(b) requires location and relocation actions subsequent to the date of enactment of the bill to be undertaken in conformance with the provisions of the bill.

Discussion

This section makes clear that enactment of the bill is not to cause a wholesale relocation of existing Federal offices. However, as offices are relocated from existing locations, or as new offices are furnished office space, they are to be located in accordance with the policies established in the bill.

TITLE III—DESIGN AND MANAGEMENT OF PUBLIC BUILDINGS

SECTION 301—GUIDING PRINCIPLES FOR FEDERAL ARCHITECTURE

Summary

Section 301 requires that public buildings be designed and maintained to bear visual testimony to the dignity, enterprise, vigor, and stability of the American Government, embody the finest contemporary American architectural thought, and where appropriate, reflect regional architectural traditions.

Discussion

These principles were first enumerated in a statement of Guiding Principles for Federal Architecture prepared in 1962 at President Kennedy's request. The principles won wide praise in professional design circles and are credited with infusing the public buildings program for a few years with a drive for excellence. The declaration that public buildings should "embody the finest contemporary American architectural thought," is meant to indicate in part that the government should avoid creating or adhering to anyone "official style." This does not mean, however, that Federal buildings cannot be distinguished by design elements that reflect the special nature and functions of public buildings.

SECTION 302—GENERAL DESIGN STANDARDS FOR CONSTRUCTION AND RENOVATION

Summary

Section 302 stipulates that, except for buildings meeting criteria under section 303, public buildings are to be designed and constructed so as to approximate the costs, durability, and ratio of net usable space to gross space of commercial buildings that serve similar purposes.

Discussion

The standard of this section is intended to apply equally to new construction and to renovations both of existing public buildings and of other buildings acquired for use by the government. (However, in accord with section 306(b), renovations may have to depart from this standard in some places in a building in order to preserve "those portions or features that are significant to the building's historic, architectural, or cultural values.")

The committee learned in the course of testimony that current design and construction standards for public buildings drive up the cost of those buildings far above the cost of even the finest privately constructed buildings. A July, 1976 study prepared for the GSA showed that federally-constructed buildings averaged 25 percent more in cost than owner-occupied private buildings (such as corporate headquarters). Government buildings standards for such elements as floor heights and corridor widths appear to be significantly higher than those for private buildings, and the ratio of gross building area to usable area is much lower for Federal buildings.

There are functions, such as courtrooms, that are unique to Federal buildings and that may sometimes require more generous allocations of building space to express their dignity. Federal standards for fire safety, accessibility to handicapped persons, and earthquake resistance have traditionally been stricter than those in the private sector, and the committee does not intend that these be reduced. However, there may be means of reducing the cost of meeting some of these standards. The committee directs GSA to review its design and construction guidelines to meet the standards of this section, and to review any criteria that may inflate the cost of public building construction unnecessarily.

The costs of Federal construction and renovation can be reduced without producing buildings that ignore the principles stated in section 301. It is not the intent of this section to promote construction of any public buildings of lesser quality than that of commercial buildings which serve similar purposes.

SECTION 303—EXCEPTIONAL DESIGN STANDARD FOR CONSTRUCTION

Summary

Section 303 states that the design and construction of:

(1) A general purpose office building expected to attract significant public use in any locality that is a center of its geographical region or area, or (2) a headquarters building for any Federal agency, are to meet higher standards of quality than that provided for in section 302 of the bill. The design and construction of those buildings are to symbolize the dignity of the U.S. Government through the quality or scale of its architectural details, materials, public entrances, corridors, rooms, lobbies, and courtyards. The section does not apply to general purpose office buildings within a geographic area (defined under section 113(6)), if there already exists in the area a public building of the quality described in this section.

Discussion

The standard provided in section 302 is to be the standard in nearly all new construction projects. However, there are a few exceptional instances in which it would be appropriate for the government to erect buildings of more monumental character and somewhat higher quality. Many of the old Federal courthouses, post offices, and customhouses that are now cherished local landmarks were constructed to just such high standards and represented a Federal investment in the development of far-flung communities.

The section allows this higher standard to be applied primarily in the case of new general purpose Federal office buildings—those that usually house the offices of several Federal agencies—but only in cities or towns that are regional hubs of business and commerce, and in which a Federal building of monumental character does not already exist. There are probably few such cities and towns in the country. The higher standard may also be used in building any new agency headquarters buildings. As in section 201(a), this is to apply only to the headquarters of departments and major independent agencies, and not to the headquarters of their component bureaus or services.

The application of this standard may result in more generously proportioned lobbies, entrances, corridors, courtyards, and meeting rooms, and could entail the use of somewhat more expensive finish materials. These more generous standards would be applied primarily to the building exterior and to areas of the interior that are frequented by the public.

The committee expects the Congress to be notified, in the annual program submitted pursuant to section 801 of the act, whenever the design standard established in this section is proposed to be applied.

SECTION 304—ASPECTS OF DESIGN AND MANAGEMENT

Summary

Section 304 requires that, in designing, constructing, acquiring, renovating, and managing public buildings, the Administrator assures that, consistent with minimizing costs, the buildings:

(1) conform to or complement the scale or existing or planned surrounding buildings;

(2) conserve energy;

(3) provide efficient and attractive interiors, including public reception areas;

(4) provide parking space for Government motor vehicles and handicapped employees as necessary, and other parking spaces for visitor or employee vehicles as is consistent with a general policy of transportation efficiency and energy conservation; and

(5) contain architectural details and hardware that are an integral part of the structure or fixtures and that are designed and fabricated so as to enhance the function and appearance of the public building and to reflect regional architectural traditions or Federal agency functions. To the extent these items cost more than ordinary items of this sort, art-in architecture funds shall be used to defray any additional cost.

Discussion

Scale, in this context, refers not only to the overall size and dimentions of a building, but to the relative size and dimensions of floors, windows, doors, columns and exterior ornaments. In too many recent instances, Federal buildings have been out of scale with their surroundings, imposing large building masses in the midst of streets or neighborhoods characterized by small-scale buildings. There can be no rigid rule that buildings conform to existing scale; there are instances in which a building larger than existing scale establishes a desirable counterpoint or landmark. Decisions about the scale of a building are critical to the maintenance of the quality of the built environment and ought to be made consciously and sensitively. The same sensitivity should be applied in determining the exterior materials for a project.

Energy conservation is to be considered both in design and subsequent management of a building. Conservation efforts should encompass both the use of emerging technology, or "active" energy conservation, such as computerized controls on heating and air conditioning systems or solar energy panels, and the re-use of old techniques, or "passive" energy conservation, such as natural light and ventilation and the placement of walls and windows in relation to the sun and the elements to control heat gain and loss. The committee expects to see programs in the utilization of both passive and active methods.

Federal offices are now notoriously drab and cluttered. Such conditions can only contribute to a poor public opinion of government and to a lowering of productivity and morale among Federal employees. Successful private businesses typically take greater care than the Government in laying out work areas and making them appealing. Improving the work environment need not entail great expenditures of money. In a few Federal buildings, in-house GSA designers have turned old furniture and file cabinets into clean and modern-looking work areas with a coat of paint, wood block tops, a few planters, and carefully considered arrangements of desks. Brightly painted walls and supergraphics alone are not panaceas. Professional designers and planners are needed to study work patterns and arrange efficient workspaces.

Possibly more inimical to the efficient conduct of the public business than poor employee work areas, is the inattention to good design displayed in public areas. Hard-to-read and confusing signs contribute to a citizen's feeling of frustration at dealing with government bureaucracy. "Waiting" rooms with little or no furniture and information or assistance "desks" with makeshift counters are common. These design lapses are not serious because they look bad; they are serious because they widen the gulf between the public and its public servants.

Some aspects of interior design are exclusively within the fiscal control of GSA's "tenant" agencies. Each agency purchases its own furniture for example, but from another arm of GSA, the Federal Supply Service. GSA furnishes a minimal level of interior design services and requires reimbursement for services above that level. GSA needs to increase its minimum service level in this area and undertake studies to demonstrate to Federal agencies the inefficiencies and disadvantages accruing from inattention to proper space planning and interior design. In the meantime, GSA should upgrade its design requirements for common public areas and signage in public and leased buildings and train its building managers so that these higher design standards can be maintained.

The Committee has had a difficult time reviewing the plans to provide parking in recently proposed public building projects. The number of automobile spaces provided seems to vary widely from project to project. It appears that if land is readily available near a building, all the parking employees could desire is provided. National energy policy clearly demands that employee parking be limited so as to encourage employees to form carpools or take public transportation, if available. Judges, who have special security concerns, and employees who are handicapped or on irregular work schedules may each warrant parking notwithstanding the need to curtail private automobile commuting.

Architectural details and hardware include such items as railings, doors, gates, light fixtures, and ornaments. In many older Federal buildings these details incorporate symbols of the United States and government agencies or geometric patterns that embellish otherwise mundane but necessary parts of a building. Since some part of a construction or renovation budget of a project must be allocated to providing these parts anyway, this section urges the GSA to commission their fabrication by American craftsmen. Some pieces might be commissioned for specific buildings; others might be commissioned in larger lots for use on a number of projects. It is most appropriate to place these specially-designed details in the public areas of those buildings that attract significant public use.

Should the cost of designing and fabricating these items cost more than the cost of similar items bought "off-the-shelf," GSA shall defray the added expense from funds allocated to the art-in-architecture program. The committee notes that the art-in-architecture program in the recent past has made a concerted effort to begin including craftsmen in its commissions. This section provides another outlet for their skills.

SECTION 305—PARKING FOR BICYCLES

Summary

Section 305 requires the GSA Administrator to provide sheltered and secure locations and equipment for parking bicycles at each new public building and authorizes provision of suitable support facilities. Similar bicycle parking shall be provided for existing public buildings and leased buildings where the expenditure is warranted by actual or anticipated use.

Discussion

At many Federal office locations, bicycle commuting is feasible for a substantial number of employees. GSA managers, however, often refuse to provide bicycle facilities, until significant bicycle commuting develops at a location. Obviously, one deterrent to bicycle travel by employees and visitors is the lack of a place to lock up the bicycles at the Federal offices. In order to encourage greater use of this energy-saving and healthful means of travel, this section requires that locking racks or similar anti-theft devices be provided by the Government at each newly constructed public building and that they shelter the bicycles from inclement weather. Bicycle parking facilities shall also be made available in existing Government-owned or leased buildings whenever the cost is warranted by either present or projected use. A simple bicycle rack placed in an underground garage, or a vacant basement room, or under an overhang, would meet this requirement. Wherever possible, the bicycle parking location should be in view of a guard. Even at Federal installations to which few employees might commute by bicycle, bicycle travel on the installation may well be feasible.

Support facilities may include showers and dressing rooms. Where repairs or renovations to a building are underway, provision of a few showers is quickly and inexpensively done. These facilities may be provided also for the use of employees who wish to exercise during lunch or other non-work periods. The committee learned that an increasing number of private companies are providing exercise programs for their employees in the interest of promoting employee health and productivity. This section is not intended to require or authorize the expenditure of GSA funds for exercise equipment. Space may be provided in public buildings for such equipment at the request of a tenant agency.

SECTION 306—STANDARDS OF MAINTENANCE FOR PUBLIC BUILDINGS

Summary

Section 306(a) requires public buildings to be maintained at a high level of appearance, cleanliness, and mechanical and structural fitness.

Section 306(b) requires each public building to be maintained and renovated so as to promote efficient federal agency and public use and to preserve those portions or features that are significant to the building's historic, architectural, or cultural values.

Discussion

The General Accounting Office estimates that there is nearly a one billion dollar backlog of required maintenance expenditures on public buildings. Neglecting maintenance in the interest of short-term budget-butting can only result in larger than necessary renovation or replacement costs in the future. The GAO has reported that the GSA system for reporting and rescheduling needed repairs is not working well. That is why the bill requires, in section 107, that GSA compile and maintain a list of needed repairs. That list should be compiled to reflect the successive priority assessments of building managers, regional officials, and headquarters administrators.

A clean and healthful working environment is essential to promoting the effectiveness of the Federal workforce. GSA cleaning operations should equal the level of maintenance generally achieved in private buildings of the first quality. In recent years, hazardous substances have been found circulating in the air inside certain Federal buildings, and the committee expects GSA to request the assistance of and to cooperate with the Environmental Protection Agency and other appropriate agencies to rectify such problems and to make sure that all public buildings and leased offices provide healthful environments.

Day-to-day management and maintenance of public buildings can do much to promote or impair employees morale, the effective conduct of the public business, and public access to buildings. Actions that seal off main entrances or plazas should be resorted to only in emergencies. Many public buildings have had their monumental entrances chained and locked with employees and visitors relegated to what were intended to be service doors. Similarly, courtyards and balconies that were intended to afford employees access to the outdoors are frequently closed permanently. Security and safety can be assured through other means more compatible with the operations of public buildings in a democracy.

Renovations of public buildings carried out in the past few years by GSA have carefully preserved significant architectural aspects and details of the buildings. Renovations carried out in earlier years, however, frequently destroyed or masked significant elements. Barrel-vaulted ceilings were lost to view when flat ceilings were built below them; carpeting was laid over mosaic floor tiles. It is the intent of section 306(b) to make sure that future GSA administrations continue the more recent renovation policies. Not every old element of a building need be saved or restored. Private owners have had frequent success in outfitting historic buildings with modern interior layouts and mechanical systems while preserving the special character of the buildings.

SECTION 307—AMENDMENTS TO THE ARCHITECTURAL BARRIERS ACT

Summary

Section 307 amends the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968, as amended. The purpose of the section is to incorporate definitions of the terms "physically handicapped person" and "fully accessible" in that act and to clarify the circumstances under which the standards prescribed under that act which require accessibility may be waived or modified by the agencies required to issue such standards (the General Services Administration, the Department of Defense, the Department of Housing and Urban Development, and the U.S. Postal Service). The section also expands the definition of "building" currently in the act to include acquired buildings.

Discussion

As introduced on February 24, 1981, S. 533 contained a provision which required the agencies with standard setting responsibility under the Architectural Barriers Act to submit those standards to the Architectural and Transportation Barriers Compliance Board to assure that they were consistent with the minimum guidelines and requirements issued by the Board.

During hearings on the bill and in comments received afterward, several alternative approaches were suggested. One such approach was to amend the Architectural Barriers Act directly. Senator Robert T. Stafford, chairman of the committee, introduced in the Senate on March 19, 1981, amendment No. 10 which embodied that approach. On April 2, 1981, the committee adopted that amendment, with amendments. That language was section 307 of S. 553 as reported and has been retrained as such in S. 452.

The Architectural Barriers Act of 1968 is the cornerstone of all other Federal efforts to prevent discrimination by denying an individual physical access to Federal buildings because of a handicapped condition. The record of adherence to the law is, at best, uneven. The history of the act clearly suggests that the Congress intended that all general purpose Federal buildings be built to afford ready access for all handicapped persons. The record of implementation clearly suggests that has not been the result.

Congress has previously amended the act twice. In in 1970, it included the Metro Subway System of the District of Columbia within the ambit of the law (Public Law 91-205). In 1976, as a result of profound defects in the administration and implementation of the original act found by GAO in its July 15, 1975 report to the Congress (FPCD-75-166), a revision of definition of "building" to include leased space was made and a system of investigations and surveys was provided for in the act (Public Law 94-541). Inclusion of the amendments made in this section stems from the belief that further clarification and refinement of the act is necessary to improve administration, implementation and enforcement.

Briefly described, the act operates in the following way. The Administrator of the General Services Administration, the Secretary of Housing and Urban Development, the Secretary of Defense and the Postmaster General must issue regulations establishing standards for physically handicapped persons' ready access and use of buildings under their respective control. The agency head is authorized to waive or modify a standard on a case-by-case basis where the modification or waiver is clearly necessary.

The committee felt that there were two essential areas that needed clarification or refinement in order to improve that implementation of the act. First, certain terms in the act needed to be defined in order to provide for greater uniformity and effectiveness in implementation. At present there is no definition of who each of the standard setting agencies is to consider physically handicapped persons. Therefore these amendments define that term. Also, the phrase "ready access, to and use of," building is not defined. It is strongly believed that by removing that phrase and replacing it with the defined term "fully accessible" much doubt would be eliminated regarding the type and degree of accessibility required under the act. Thus, including the definition will lead to much needed uniformity of application and implementation by requiring each agency to meet the meaning of that definition and by eliminating much of the confusion that the other undefined terms may now cause.

Second, in its own study during the 96th Congress of the implementation of the 1968 act, the committee found that the terms "waiver" and "modification" were not always distinctly differentiated because of the language then current in the act (Report No. 96-8 of the U.S. Senate Committee on Environment and Public Works, November 1979).

The terms are used conjunctively in the act at present. The committee believed that they should not be and that a proper differentiation should be made between both the terms and the way in which each permits deviation from the standards. Thus, it adopted the new section 6(b) of the act in this bill which permits a waiver; that is, a total disregard of the standards with respect to a particular building only on a case-by-case basis and when it is clearly necessary that an agency must lease space (in a building other than one which is built by the Government to be leased) in an emergency situation. The committee recognizes that, for example, in hurricane or other disaster relief efforts where timeliness is essential to the effectiveness of the service to be rendered, any and all standards of accessibility may be ignored in order to assure that an agency is able to render its assistance as quickly as possible. In this instance, the agency may lease space and not be constrained by the act except to the extent that a waiver must be documented for recordkeeping purposes. There may be other instances where very short term leasing may be necessary to provide an essential service, and the committee would expect that waivers would be used in those instances as well.

Further, the committee bill provides what is believed to be clearer delineation as to when and under what circumstances modifications to the standards of access may be issued by the agency. Essential to this view is the belief that certain aspects of accessibility can, and should, always be found in buildings to be used by the Federal Government even where, in certain instances, several modifications of the standards are necessary. Thus, the committee bill requires that any request to modify the standards be no broader than is absolutely necessary to allow the agency to obtain needed space without violating the act.

Currently GSA makes a significant distinction between what are considered acceptable levels of accessibility in leased space and what is likely to be found in Government-owned space under its control. In the latter case the level of accessibility is, in general, considerably higher. That is, more of the space is useable by the physically handicapped and the ingress and egress of the building are not impeded. The reported bill sets timetables for decreasing the number of Federal employees housed in leased space. As that process continues, however, leased space will continue to be a significant portion of the Government's space inventory. Leased space should meet the fully accessible definition to the same extent as space constructed under the authority provided in the committee bill, but it is recognized that market factors which affect the availability of space for lease will preclude the full achievement of that goal. Thus, the committee expects that approval of modification requests for some leased buildings may be necessary to avoid violation of the act by tenant agencies. The committee wishes to make clear, however, that GSA and other agencies should actively solicit the most accessible space first and apply for modification only when there is no alternative. Further, agencies are expected to modify the standards as little as possible, assuring that the most accessible space available in an area will be leased.

In its consideration of the issue of how broad modifications may be, and under what circumstances they may be permitted, the committee found that there may be situations that arise during construction or alteration of a building when, because of changes in the expected use of the space or other reasons not forseeable at the time the construction was undertaken, some aspects of the standards of full accessibility may have to be sacrificed in order to complete the project. Therefore, the amendments made by the committee bill permit a modification of the standards to meet that eventuality.

The most extreme circumstance in which a modification may be required for new construction or a major alteration is where full accessibility might be achieved but only with such great difficulty as to undermine the purpose for which the construction or alteration was undertaken. The committee bill amendments permit this type of a modification, but only under regulations prescribed by the responsible agency head to assure it is not abused. It also is believed that this type of modification request should be very rare, and approval of it should be made at an appropriate policy making level in the agency concerned.

Prior to final action on the bill, it was brought to the committee's attention that the term "building" as defined in the Architectural Barriers Act did not include buildings that might be acquired by the Federal Government. Since the committee wants the act to have the broadest possible application, it amended the definition to include such buildings.

There is another concern thast the committee wishes to note. Those agencies that issue standards of accessibility under the act, and those that are required to issue them by virtue of the delegation of construction authority to them by GSA, should look closely at those standards to assure that they are as uniform as possible in their technical aspects. It simply does not make sense, in the committee's view, for each agency to prescribe a different gradient for a ramp, or a different size for doorways, or a different minimum height level for elevator buttons. Yet, in its review of the regulations of several agencies, the committee has found that this is precisely the case. There are uniform technical standards pertaining to handicapped accessibility which are now available, and while the committee did not feel it was appropriate to prescribe them in the legislation, it does believe strongly that agreement should be reached on them. It would be most beneficial if the set of standards adopted by all agencies is compatible with those used in private construction as well. As a consequence, the need for modifications to the standards issued for leased space will be less necessary as the private sector begins to make up for lost time by constructing more accessible buildings.

The committee does not believe that each of the agencies, which have disparate jurisdictions should apply handicapped accessibility standards without taking the structure and use of buildings into account. For example, the committee understands that an agency primarily concerned with residential structures will have different requirements than one which is primarily concerned with general office buildings. It would expect that the number of adaptations in each of those cases might differ substantially. But clearly, if each structure requires ramping to provide ingress and egress, it would seem logical that such ramping could be of a uniform slope.

The overriding concern of the committee continues—as first expressed in its report on S. 2080, (Report No. 96-771) The Public Buildings Act of 1980, which overwhelming passed the Senate during the 96th Congress—to be that the Federal Government should not, ever again, build a building which is not fully accessible to all the people. The fact that some taxpayers are more equal than others, in terms of access to their government, because they have the physical ability to mount a curb or climb a flight of stairs is repugnant to the notion of equal rights and equal protection. Physically handicapped persons have the right to deal with the agencies of government in an equal way. Thos rights should never be abridged by physical obstacles thoughtlessly erected by that same Government. These amendments were adopted to attempt to assure further that they are not.

SECTION 308—AUTHORIZATION OF THE ADMINISTRATOR TO NAME PUBLIC BUILDINGS; LIVING MEMORIALS

Summary

Section 308(a) authorizes the Administrator to name a public building upon the request of local and state officials, and to establish a memorial in the building, in honor of persons who distinguished themselves in government, science, industry, education, the arts, or other fields. Persons so honored are to be at least seventy years old, and except in the Washington, D.C. area, be from the vicinity of the building, and not be sitting Members of Congress.

Section 308(b) authorized GSA to match contributions, up to a limit of $10,000, for memorials to persons after whom buildings are named either pursuant to subsection (a) or by Act of Congress.

Section 308(c) requires GSA to determine the form and location of the memorials in consultation with state and local officials. Memorials are to be fountains, gardens, or other building appurtenances that are publicly accessible.

Section 308(d) authorizes GSA to conduct competitions to select designers for memorials.

Discussion

Scores of Federal buildings have been named for former Members of Congress and othe distinguished Americans by separate Acts of Congress. In most instances, only the buildings signs denote that fact. The accomplishments and attributes of the person so honored are rarely recounted in a display or plaque, nor is a work of art or other appurtenance placed in commemoration of the building's namesake.

This section would permit the creation of landscape or architectural works to honor the Americans for whom public buildings are named. Federal funds would only be expended on such works in amounts matching contributions from other levels of government, or from private citizens, and in no event in an amount greater than $10,000.

The Administrator would only be authorized to name a building if he were officially asked to do so by State and local officials, and the committee intends that such requests would have to be made by such officials on the authority of State and local elected bodies of government. Buildings could also be named, as at present, by Act of Congress.

SECTION 309—USE OF VACANT OR UNDERUTILIZED SPACE

Summary

Section 309 directs the Administrator to study the efficiency and economy of the use of space by Federal agencies in Government-owned and leased buildings under the jurisdiction of GSA. Whenever space is found to be vacant or underutilized, the Administrator shall employ appropriate means to improve the productivity and economical use of space.

Means to increase the cost-effectiveness of space utilization include consolidation, reassignment, relocation, cancellation of leases, lease of Government-owned space, and outlease of Government-leased space.

Space found to be vacant or underutilized may be leased or outleased, as the case may be, without going through the lengthy, mandated procedures for disposal of excess property.

To assist in carrying out this section, the Administrator may employ the services of private real estate brokers.

Discussion

Leasing vacant space in Federal buildings or subleasing space in rented buildings is currently considered to be a disposal of excess Government property and subject to all the procedures relating thereto. These procedures usually consume many, many months.

This section would enable GSA to lease or sublease vacant space without going through the lengthy disposal process. Unlike disposals—whereby the Government's interest ceases after title passes—leasing and outleasing are a buildings management function.

The authority of this section to permit leasing and outleasing is not intended to put the Government in the leasing business in competition with the private real estate industry. This authority shall be utilized only to provide more economic and productive use of existing, vacant space. Subleases of Government-leased space shall not extend beyond the duration of the lease held by the Government. When the lease expires, the Government should dispose of the space, not renegotiate the lease and continue to sublease.

SECTION 310—GOVERNMENT-WIDE INVENTORY OF EXCESS AND UNDERUTILIZED SPACE

Summary

Section 310 directs the head of each Federal agency to furnish to GSA an inventory of all excess and underutilized space under the custody and control of the former which is generally suitable for reassignment for use of other Federal agencies.

Discussion

Periodically, each agency shall furnish GSA an inventory of excess or underutilized space under its control which is suitable for reassignment or use of other Federal agencies. A Government-wide compilation of excess or underutilized space could facilitate more productive use of existing space and reduce construction or leasing expenditures. For example, a need for space by one agency may be accommodated by reassigning excess space in lieu of acquiring additional space by purchase, construction, or lease. This section is intended to facilitate the policy set forth in title II of this legislation to provide more productive use of existing space, whether controlled by GSA or another agency.

SECTION 311—DISPOSAL OF REAL PROPERTY

Summary

At least 30 days before disposing of any public building or site suitable for the construction of a public building, the Administrator shall notify the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House.

Discussion

Decisions to dispose of real property often bear directly on expenditures for construction, leasing, alteration and repair. For example, without notifying the Committee on Environment and Public Works or the Committee on Public Works and Transportation, GSA decided to dispose of its court facilities in Youngstown, Ohio. It sold the building for $190,000; however, since courtroom space was still needed in Youngstown, GSA leased the same space from the city, which had purchased the facility. When the city notified the GSA that it did not wish to renew the lease, GSA asked the Congress to authorize $10 million for construction of a new courthouse to replace the one sold for $190,000.

Decisions to dispose of real property are not separable from—but are closely correlated to—decisions which the Public Works Committees are asked to make. Notifications are required by the Committees to carry out its oversight responsibilities and project authorizations.

TITLE IV—MIXED USE AND ADAPTIVE USE IN PUBLIC BUILDINGS

SECTION 401—PUBLIC BUILDINGS COOPERATIVE USE ACT AMENDMENTS

Summary

Section 401 cites this title as the "Public Buildings Cooperative Use Act Amendments of 1983."

Discussion

This title amends the Public Buildings Cooperative Use Act of 1976 (Public Law 94-541).

SECTION 402—AMENDMENT OF SECTION 102 OF THE PUBLIC BUILDINGS COOPERATIVE USE ACT

Summary

Section 402(a) amends section 102(a)(2) of the Public Buildings Cooperative Use Act by providing that the amount of space "outleased" in a public building's major pedestrian access levels for commercial, cultural, educational, and recreational activities—

(A) is to be determined by GSA in the light of the market for such activities in the neighborhood of the building or to serve the needs of employees and visitors; and

(B) is not to exceed 15 percent of the occupiable space of the building, unless the configuration of the ground floor levels justifies outleasing a greater amount.

Section 402(b) amends section 102(a)(4) of the Public Buildings Cooperative Use Act to encourage the public use of public buildings for occasional cultural, educational, and recreational activities and to encourage the Administrator to construct and maintain space and equipment in public buildings suitable for these activities, including exhibits described in section 503(a) of the bill.

Discussion

Amended section 102(a)(2) clarifies the amount of space in public buildings which may be offered for lease for private commercial, cultural, educational, and recreational activities. It also provides for the planning, design, and construction of such space.

The purpose of the "mixed-use" or "outlease" provisions of the Cooperative Use Act was, according to the report of the Committee on Public Works, ". . . to add vitality to existing and future Federal offices, . . . serve the employees of the building and those who must visit them on business, and . . . enhance the social, cultural, and economic environment in and near Federal office buildings." The legislation permitted space to be leased on the "major pedestrian access levels" of public buildings. Depending on the configuration of the building, the report noted, this could be one or several floors. The report indicated that the total amount of rental space in any event generally should be "equivalent to the square footage available on any single floor."

Despite this indication that the amount of space to be leased was to be largely a matter for decision on a case-by-case basis, GSA and OMB have arbitrarily limited outlease space to no more than 10 percent of the space in any building. In a building of less than ten stories, this obviously means that not even an entire floor can be given over to such uses. This artificial restriction has led to awkwardly configured plans for mixed-use in several instances. Furthermore, some older monumental public buildings contain large public spaces that cannot be converted to modern office uses without destroying their significant architectural characteristics. The bill clarifies this situation by establishing a maximum on outlease space in most buildings of 15 percent of the building's space. The largest private mixed-use projects developed by private enterprise seem to allocate about 25 percent of building space to retail uses. (As defined in section 105 of the original act, and left unchanged by this amendment, the commerical users permitted in outlease space are retail activities such as stores and restaurants; private offices are not permitted.)

The outlease provisions of the act have not been energetically applied by GSA. Despite prodding by the committee, GSA officials have declined to hire or consult with experts in the field of mixed-use leasing. The committee noted in its report on the Cooperative Use Act, "tenants should be sought or encouraged so as to promote an attractive and interesting mix of commercial and other activities serving the community . . . Provisions must be made for access by the public, which may dictate certain architectural considerations, such as allowing shops to be conspicuous so that they can attract customers from the street." GSA has, with a few exceptions, allowed its realty specialists to advertise for and negotiate with the prospective mixed-use tenants. These realty specialists are trained to lease office space for the Government; they do not have the commercial marketing experience required to put together successful mixed-use projects. There is more promise in the approach GSA has taken in its large-scale mixed-use undertakings in the renovation of the Customhouse in St. Louis and the Old Post Office in Washington: it has leased the mixed-use space to a "super-tenant," an expert mixed-use developer who will sublease the space. The committee strongly urges, however, that GSA maintain a small in-house office to market the space in other Federal buildings more knowledgeably.

An in-house office would, above all, give GSA the expertise it needs to know when—and when not—to attempt to draw mixed-use tenants to a building. The committee report on the Act stated, "cooperative use is a limited tool . . . It will not work everywhere." GSA has, on a few occasions, attempted to offer for outlease very small blocks of space in public buildings. These blocks were too small to allow a significant number, or "critical mass" of businesses to locate in the Federal building. Some of the buildings were not in active commercial areas. GSA also has not arranged to make the design modifications necessary to entice passers-by into mixed-use buildings. Amended section 102(a)(2) therefore requires that more thorough consideration be given to decisions to outlease at any building and it authorizes and encourages proper design and construction to accommodate mixed-use activities.

The most successful aspect of the Cooperative Use Act, by far, has been the use made of the authority granted in section 104 of the Act to GSA to make public building courtyards and lobbies "available, on occasion" for cultural, educational, or recreational activities. In 1979, under the GSA Living Buildings program operated under this authority, 5,906 events took place in public buildings. The only change this section would make in this authority is to make clear that GSA can "design, construct, and maintain space and equipment" needed for these occasional uses. Special lighting for art and other exhibits and sound systems for musical and other performances are examples of the equipment needed in some public buildings to improve the operation of the Living Buildings program.

SECTION 403—REPEAL OF SECTION 103 OF THE PUBLIC BUILDINGS COOPERATIVE USE ACT

Summary

Section 403 repeals section 103 of the Public Buildings Cooperative Use Act of 1976.

Discussion

Section 103 of the Cooperative Use Act amends the Public Buildings Act of 1959, which this bill would repeal. Section 7 of the Public Buildings Act of 1959, which section 103 (1) and (2) of the Cooperative Use Act amended, would not be replaced by anything comparable in this bill.

Section 103(3) added a provision to the Public Buildings Act of 1959 requiring GSA to request the Advisory Council on Historic Preservation to identify suitable historic buildings for possible conversion to Federal office uses. As noted above in the discussion of section 203 of this bill, none of the Advisory Council's recommendations have been accepted to date. The Advisory Council and GSA have also disagreed over funding of the Advisory Council's work under this provision and the Advisory Council has not had sufficient staff or funds to respond to all the GSA requests for assistance with respect to leased space. Repealing section 103 would eliminate this Advisory Council report to GSA on individual projects. The Advisory Council staff has advised the committee informally that it would not object to this repeal. The section thus places directly in GSA, under the priorities established in section 203, the responsibility for identifying and evaluating opportunities for recycling historic buildings. The committee again directs GSA to prepare, jointly with the Advisory Council, guidelines for making the adaptive use decisions called for in sections 203(B) and

203(C). The committee also urges GSA to take into account in preparing these guidelines, the recommendations of the task force on historic preservation convened by the Administrator of GSA in January 1979.

Section 103 of the Cooperative Use Act requires GSA to explain to the public works committees, in its project prospectus, why it is not proposing adaptive use if the Advisory Council has identified a suitable historic building. This procedure has not been followed in practice, because at the time project prospectuses are submitted to the committees, GSA and the Advisory Council have invariably not completed their evaluations of adaptive use opportunities. Under the bill, evaluation of these opportunities is to be accomplished during the preliminary planning and design phase of a project. When the GSA submits its annual plan for the public buildings program, under section 801 of the bill, its proposal for new construction, acquisition, and renovation projects will be sufficiently developed for the Congress to know, for each project, whether adaptive use of historic buildings had been considered.

SECTIONS 404 AND 405—CONFORMING AMENDMENTS TO THE PUBLIC BUILDINGS COOPERATIVE USE ACT

Summary

Section 404 amends section 104(a) of the Public Buildings Cooperative Use Act of 1976 and simultaneously amends section 210(a)(16) of the Federal Property and Administrative Services Act of 1949 to authorize GSA to enter into leases of space in public buildings, in accordance with section 102(a)(2) of the Public Buildings Cooperative Use Act, as amended, and to establish rental rates for the leased space equivalent to prevailing commercial rates for comparable space devoted to similar purposes and to negotiate the leases without competitive bids, so long as leasing procedures and agreements promote competition and protect the public interest.

Section 405 amends section 105 of the Public Buildings Cooperative Use Act to define the terms "public buildings" and "Federal agency" in conformity with the meaning given them in the bill.

Discussion

Section 404 amends section 104 of the Cooperative Use Act to conform its description of the allowable mixed-use space in a public building to the description in section 102(a)(2) of the Act as amended by section 402 of the bill. Section 405 amends section 105 of the Act to conform the definitions of two terms to the definitions in section 113 of the bill.

TITLE V—EXHIBITIONS AND WORKS OF ART

SECTIONS 501–503—ART-IN-ARCHITECTURE

Summary

Section 501 cites title V as the "Federal Buildings Enhancement Act of 1983."

Section 502(a) states congressional findings and declarations:

(1) that efficient use of and public satisfaction with Federal buildings will be improved if the buildings not only provide a congenial work environment but also function attractively for public service;

(2) that Federal buildings should enrich the social, commercial, and cultural resources in their communities; and

(3) that Federal buildings will be enhanced by temporary exhibitions of art works and of the Nation's cultural heritage, as well as by suitable permanent works of art.

Section 502(b) establishes a policy encouraging Federal building design which is distinguished and enriches the quality of life in the communities served by Federal buildings by incorporating permament works of art in the buildings and by providing for temporary exhibitions of art and history to be circulated among Federal buildings.

Section 503(a) requires the Administrator, with the assistance of the National Endowment for the Arts, to acquire by loan, or by lease at nominal fees, art by living American artists. These works of art are to be organized into exhibitions and circulated among Federal buildings throughout the United States. The works selected are to be representative of the different regions of the United States and its territories, and are to include diverse media.

In conjunction with the Secretary of the Smithsonian Institution, and with other traveling exhibition services, which may be reimbursed for this work, GSA is also to utilize and circulate existing or newly developed exhibitions which reflect the artistic, cultural, social, scientific, and industrial heritage of the United States. Preference is to be given to showing the exhibitions in Federal buildings in communities lacking access to museums of art and history.

Section 503(b) requires GSA—with the assistance of the Arts Endowment and in cooperation with appropriate State and local arts agencies—to commission works of art by American artists in diverse artistic media. Such works shall be equitably distributed within the United States and its territories and installed in Federal buildings. The Administrator is to maintain the works of art to a degree sufficient to preserve their aesthetic and economic value.

The works of art commissioned are to be made an integral part of the architectural design of any new Federal building and to be appropriate to the setting and space available in an existing public building. The Administrator is to avoid the development of an official style either in archiecture or associated works of art; art commissions are to give expression to the vitality and diversity of American life.

The Administrator—with the assistance of the Arts Endowment and in consultation with appropriate State and local arts agencies—is to establish procedures, which may include competitions, to commission suitable works of art, and he is to give full consideration to the participation of local artists.

Section 503(c) authorizes one-half of 1 percent of the funds available in each fiscal year for design, construction, repair, renovation, alteration, and acquisition to carry out the purposes of this section. No more than 25 percent of these funds may be expended under subsection (a), and no more than 75 percent both for subsection (b) and for subsection 304(5).

Section 503(d) defines the term "Federal buildings" to mean public buildings under the jurisdiction of GSA, that are expected to attract significant public use and the term "works of art" to include paintings, sculptures, crafts, building arts, works on paper, and environmental works.

Discussion

Title V is identical, except for minor technical changes, to S. 2379 introduced in the 95th Congress, and to S. 1791, introduced in the 96th Congress. Section 501 maintains the distinction of this title as a separate act.

The Public Buildings Act of 1983 stresses the need for better planned and designed Federal buildings in order that they be woven into the social, cultural, and commercial fabric of their communities. This title furthers these goals by providing for permanent installations of works of art in Federal buildings and for temporary exhibitions of art, history, and culture to be circulated among Federal buildings. The title also supports the goal of the Public Buildings Cooperative Use Act of 1976 to make Federal buildings centers of community pride and activity and to improve settings for employees and visitors.

Works of art have long been incorporated in public architecture—from the frieze on the Parthenon, to the murals in the Ducal Palace in Venice, to the murals and statuary of the U.S. Capitol. For the very earliest public buildings of the United States, craftsmen were called on to carve or fabricate symbolic eagles, column capitals, and relief sculptures that were embedded in the neo-classical architectural elements of the day. Benjamin Latrobe, one of the early Architects of the Capitol, placed columns sprouting corn cobs and tobacco leaves in the entryways. Paintings, murals, and freestanding sculpture were also incorporated into these buildings. In 1855, Congress commissioned Constantino Brumidi to paint a series of frescoes in the Capitol.

This tradition of Federal art-in-architecture was never more evident than in the first four decades of this century, during which thousands of commissioned works of art were placed in newly constructed post offices and Federal buildings. These buildings, most of them still standing, exhibit a profusion of built-in arts and crafts. For example, the buildings of the 1930's Federal Triangle in Washington embody specially designed chandeliers, gates, and even elevator doors, and commissioned murals and sculptures. These decorative elements appeal to the human scale and help relieve the monumentality of Federal buildings.

Twenty years before the Federal Triangle was built, however, progressive architects were designing buildings absent of ornament. The so-called International Style or "modern" architecture eschewed applied decoration in the belief that "less is more" and that basic architectural elements, such as structural columns, should comprise the art of architecture. This credo held that decoration, painting, and sculpture only tended to hide structural truths. Out of this revolt against revivalism evolved the all-too-familiar austere modern buildings which the Federal government largely imitates today. The fields of art and architecture became more and more isolated from one another. Works of art came to be conspicuously absent in modern architecture and where they are included they often appear as an afterthought rather than as an integral part of the architectural setting.

The credo of the International Style held that subordinate works of sculpture and painting could at times succeed in decorating modern buildings without becoming merely applied ornament, but that the art and the architecture must always remain independent. Modern architecture acted as a background for separate pieces of painting and sculpture which were not particularly designed for architectural settings. "But there is an opportunity here for collaboration which may well in the future lead to brilliant results," stated an influential manifesto of international style proponents in America.

The 1960's brought renewed interest in the need for art in Federal buildings. The 1962 report of President Kennedy's Ad Hoc Committee on Federal Office Space, in its "Guiding Principles for Federal Architecture," stated that "the Federal Government . . . should take advantage of the . . . collaboration between architecture and the fine arts . . . Where appropriate, fine arts should be incorporated in the designs, with emphasis on the work of living American artists."

In 1963, GSA initiated a new Art-in-Architecture program that set aside one-half of one percent of the estimated construction cost of each new Federal building for works of art to be chosen by the project architect. Due to inflationary construction costs, the program was halted in 1966. At that time, 44 works had been commissioned. The program was revived in 1972, with the National Endowment for the Arts actively guiding the selection process. However, due to the frequent turnover of GSA Administrators and officials, and the ad hoc nature of the program, the funds set aside for art have varied and at times been shut off altogether.

In 1976, Congress enacted the Public Buildings Cooperative Use Act which authorized GSA "to make available, on occasion, or to lease . . . auditoriums, meeting rooms, courtyards, rooftops, and lobbies of public buildings . . . (for) cultural, educational, or recreational activities . . ." Under sections 102(a)(4) and 104(a) of that Act, public buildings have been used thousands of times for various civic and cultural exhibits. The extent to which any building is used, however, depends largely on the initiative of the GSA building manager and the surrounding community. In some locations where these programs might do the most to enliven community life, they have been the least attempted.

Section 503(a) requires GSA to organize a program of traveling art, scientific, and other exhibitions for Federal buildings. (Federal buildings, here and throughout title V, are defined to mean those Government-owned buildings controlled and managed by GSA that have significant public use. The definition would encompass office buildings, courthouses, and border stations, but would exclude warehouses, garages, and the like.)

Section 503(a)(1) established traveling exhibitions of contemporary American art. In organizing these exhibitions, GSA is to consult the National Endownment for the Arts, a Federal agency established by the National Foundation on the Arts and the Humanities Act of 1965. Works of art that can be acquired on loan or at a nominal fee are to be grouped into appropate exhibitions and displayed in the public areas of various Federal buildings.

These exhibits will both lend visual interest to the buildings and provide an outlet for living American artists to make their work known. The various exhibitions are to draw upon artists from all over the country and its possesions—including artists who have not had opportunities to show their works—and to include a wide range of artistic media. The program as a whole should within the limits of cost, expose American citizens to the contemporary artwork of their own and other regions of the country.

These exhibitions are to be strictly temporary in nature and are not to become a permanent part of any Federal building. Works of art are not to be acquired under the subsection except in direct anticipation of being included in an exhibition and are to be returned immediately following the exhibition tour. It is not the purpose of this section to authorize, in any manner, the development of a so-called art bank. Documentation should be kept on all exhibitions originated at GSA, including information on the artists, their works and the locations exhibited.

Section 503(a)(2) establishes traveling exhibitions of contemporary and historical art, culture, society, science, and industry. These exhibitions are to be developed, borrowed, or acquired for a fee in conjunction with the Smithsonian Institution (and particularly the Smithsonian Institution Traveling Exhibitions Service) and other non-profit exhibition services. There are many exhibitions organized each year by these organizations for presentation in museums and community centers throughout the country. This subsection requires GSA to avail itself of the services of these organizations and to give priority in showing these exhibitions, to Federal buildings not located in the vicinity of major museums and other cultural institutions. These exhibitions are also to be strictly temporary in nature.

The committee expects the office of the Supervising Architect to direct and coordinate the temporary exhibitions organized under section 503(a). That office should provide for the safe transportation, secure storage, if necessary, proper installation, lighting, display, security, and insurance and timely circulation necessary to guarantee successful exhibitions. Section 402 of the bill amends section 102(a)(4) of the Public Buildings Cooperative Use Act to require the Administrator to provide space and equipment in public buildings necessary to mount the exhibitions organized under section 503(a).

Section 503(b) provides for GSA to commission appropriate works by American artists to be permanently installed in Government-owned buildings. The section does not authorize the purchase of completed works of art. It rather relies on the creation of new works of art to ensure that the works are integrated with their architectural settings.

In some past GSA commissions, planning for art and the selection of artists took place so late in the development of buildings, that the art appeared to be artificially appended to the building, or isolated in a yard outside the building. The section requires that planning for art begin during the preliminary planning and design for a new Federal building or for the renovation of an existing public building. This could well mean that the selection of artists should be made during this preliminary phase, so that the artists and architects have the earliest opportunity to collaborate.

The Administrator is directed to inform artists selected for commissions that their works are to be integrated into the architectural design of new buildings, or appropriate to the setting and space available in existing public buildings. This does not mean that the art must be in the same style as the building, or that it be affixed to the building. The art-in-architecture program is not established to assist in the creation of works that stand by themselves, as works destined for museum or gallery showings are; the program is established to enhance architectural settings, and the artists selected are expected to recognize this distinction.

The history of art is replete with examples of works of art whose content was dictated by its commissioning patrons. Nevertheless, this section prohibits the Government from dictating "an official style" and this is intended to mean that the Government should not promote a genre of art distinguished by its thematic matter, either. Rather, Goverment commissions are to take advantage of the diversity of cultures and of styles and forms of art extant at any given time in America. While the section forbids censorship in any manner, it is not intended to prohibit the Administrator from reminding artists that their art will be placed where members of the public will not necessarily have made a free choice to view it or not and that the art, as architecture, should reflect the dignity of the American system of government.

Every effort is to be made to distribute commissions for works of art equitably to Federal buildings all over the country and its territories, but there is no stipulation, under the funding formula in section 503(c), as to the amount of art to be provided for any given Federal building. It is conceivable that new work might not be commissioned for the renovation of a Beaux Arts building that already displays a great deal of art, although art funds may be allocated to restore or refurbish that art. On the other hand many works might be commissioned for another, austere building, and installed at many places within and around it.

Subsection 503(d)(3) defines "works of arts" very broadly, so that art commissions can take in the full range of American artistic creativity. The works may include sculpture, mobiles, bas-reliefs, fountains, earthworks, lightworks, assemblags, murals, frescoes, fiberworks, tapestries, banners, mosaics, ceramics, and "works on paper" such as prints and photographs.

Under the existing art-in-architecture program at GSA, and under its predecessor programs, insufficient attention and funding has been accorded to maintaining and preserving the works of art commissioned by the Government. Many portable works created in the Depression were lost completely; some New Deal murals were later covered by new construction or hidden by file cabinets and many have suffered damage through the years. Section 503(b)(1) requires the Administrator to provide the necessary services to conserve existing and future commissioned art.

A conscientious conservation program should include some training of building managers to recognize and report signs of deterioration or damage. Managers might also enlist the help of local experts in watching for signs of wear. Documentation of the materials used in new works of art can help in their later repair. Professional art conservators can be temporarily employed under the Administrator's general contracting authority to repair and restore works where necessary. Repair of works of art by unqualified personnel should be prohibited.

Defacement or destruction of works of art, whether by Federal employees or private citizens, is illegal. Under existing law (18 U.S.C. Sec. 361) the destruction of Federal property, is punishable, if the damage exceeds one hundred dollars, by a maximum fine of $10,000, imprisonment for a maximum of ten years, or both.

It is the intent of this section to continue the current practice of vesting in the Government all right, title, and interest in the artworks once they are completed and paid for. The committee expects that no work of art acquired under section 503(b) would be sold or donated to any person, government, or organization, unless the work is permanently affixed to a public building that is subsequently sold or transferred.

Maquettes, sketches, and other documentation of the development of a commissioned work might be deposited in the National Museum of American Art if the Administrator chooses not to keep them. Like architectural drawings, they may be important for future academic research or preservation efforts, and ought to be stored safely.

The section requires GSA to get the advice and assistance of the Arts Endowment in selecting artists for commissioned works. Such a cooperative arrangement has been in effect since 1972 under which the Arts Endowment assembles ad hoc selection panels that compile ranked lists of recommended artists for each commission. The precise cooperative procedures have been altered from time to time, and the bill reserves to GSA and the Endowment the discretion to fashion these arrangements as they see fit.

The Administrator is authorized to conduct competitions to select artists for commissions under this section. Many of the same objections raised against architectural competitions are presented against artistic competitions. However, the reasons that prompt the committee to require a significant number of architectural competitions, discussed below with respect to section 602, apply with equal weight to artistic competitions.

In light of comments that have appeared in the press and in the hearings of other congressional committees that local opinions have not always been considered under the GSA-NEA procedures, the bill requires consultation with appropriate State and local arts agencies. Each State now has an official arts agency, and in those cities or counties that do not have a similar organizations, there are usually private groups that serve similar functions. These agencies can be especially helpful in providing information on local artists who might be considered for commissions. These agencies can also help inform the public of the proposed art project, solicit local opinion, provide opportunities for selected artists to discuss their proposed or completed works and hold restrospective exhibitions on the selected artists.

No commissioning or selection procedure can eliminate the potential for controversy over a work of art. The very essence of some works of art is to present new, occasionally unsettling ways of seeing things.

Section 503(c) authorizes a form of funding for this title that marks a significant departure from the existing funding of artworks in GSA. Since its inception in 1963, the GSA program has set aside a certain percentage of the cost of a particular project to be made available for commissioning art. As project costs rose, this expenditure for art was often the first item cut. Moreover, this procedure did not provide continuing funding to maintain the art that had already been acquired and it encouraged allocation of funds for new artworks in the renovation of buildings already rife with art.

The bill sets aside for the arts and exhibitions programs of this title a percentage of the annual authorization and appropriation for the public buildings program. More precisely, it sets aside one-half of one percent (0.5 percent) of the funds for design, construction, acquisition, renovation, repair, and alteration of public buildings in each fiscal year. A quarter of the total of this amount is authorized for exhibitions; the other three quarters is reserved for commissioning works of art and defraying partial costs of crafted hardware under section 304(5). This arrangement places the activities under this title on a programmatic, rather than a project-by-project basis, just as the bill as a whole is intended to place the public buildings program on a programmatic instead of a project-by-project basis. In fiscal year 1984, based on GSA's budget request, this program would provide approximately $1.9 million for the programs of this title.

TITLE VI—ARCHITECTURAL SERVICES

SECTION 601—EMPLOYMENT OF DESIGN PROFESSIONALS

Summary

Section 601. requires the Administrator to employ professional architects, engineers, landscape architects, interior and graphic designers, and urban planners to prepare each year, under the Supervising Architect, plans, drawings, and specifications for a number of construction and renovation projects designated by the Commissioner of Public Buildings as necessary to enable those employees to utilize their professional skills and training.

discussion

Nearly all of the design work of GSA is carried out by privately employed architects and engineers. Private architects are, and it is the intent of the bill that they continue to be, principal source of designs for Federal buildings. Reliance on private designers allows GSA to take advantage of a broad range of ideas and experience and to respond flexibly to a fluctuating design workload.

GSA has an in-house staff of designers who are chiefly engaged in writing design and construction criteria and in reviewing the work of others. Work on this GSA staff is so far removed from actual designing that service in GSA is not counted toward professional architectural registration by state licensing boards.

When a GSA project is received favorably by the press, its private architect is acclaimed; when a project is reviewed unfavorably, GSA usually gets the blame. In these circumstances, it is unrealistic to expect Public Buildings Service designers to take pride in their work. Moreover, their removal from the design process renders it difficult for them to acquire and pass along the expertise that should build up in the PBS from project to project and allow PBS to refine project requirements and prevent mistakes from being repeated.

From the very first work on the Capitol and White House until the past few decades, the Federal Government actively employed practicing designers. Under the Supervising Architects of the Treasury, government architects, engineers, and draftsmen supplied designs for most of the government buildings, including post offices, built from the 1840's to 1939. Many of our most distinguished old government buildings were designed by government architects: the Treasury, Old Post Office, Old Executive Office Building, and Patent Office (now the National Portrait Gallery) in Washington alone.

This section would encourage government design professionals once again to be involved actively in the actual work of design. The committee carefully considered testimony for and against this proposal. The committee determined that only by offering challenging design opportunities can the government hope to attract and retain both talented young design professionals and experienced older professionals interested in true design work.

The Commissioner of Public Buildings in the Carter Administration testified before the committee that, based on his experience managing the Navy's construction program, it is desirable to provide in-house staff with challenging projects that they can call their own. The Commissioner stated that he thought setting aside about 20 percent of the volume of construction and renovation work would provide a sufficient workload for his staff. The committee concurs in that estimate and also in the Commissioner's belief that each in-house design office or team should have at least one challenging project to work on each year. The committee expects that those projects to be assigned to in-house professionals would be identified in the annual program submitted pursuant to section 801 of the bill. Nothing in this section impinges upon the Administrator's authority, under civil service laws, to hire and remove design professionals. Rather, it requires such professionals as are retained to be actively employed.

The committee was told, in the testimony of several professional design societies, that the most important role for government architects is to represent the government as "client" in relation to private architects designing public buildings projects. In this role, government architects write the building "programs" (criteria) on which the private architects base their designs. The public architects then review the designs that are prepared. Having designers in government service actively involved in design work of their own can do nothing but improve the competence of government architects when they act as clients and enhance the mutual respect between the public and private professionals working together on public building projects. Practicing professionals in government service should make better clients because they will possess up-to-the-minute design knowledge and experience, and have the self-confidence to act decisively, welcome new ideas, and reserve their subjective design predilections for their own project work.

The staff in the Supervising Architect's office would also assist the Supervising Architect in conducting building research and evaluation, operating design competitions, and carrying out the design policies of the bill. In addition, the office of the Supervising Architect should consider maintaining an archive of building designs: plans of many existing Federal buildings have been lost, impeding both renovation projects and historic research.

SECTION 602—DESIGN COMPETITIONS

Summary

Section 602(a) stipulates that architectural designs not prepared under section 601 are to be procured from private architects in accord with title IX of the Federal Property and Administrative Services Act (the Brooks Bill). With respect to a substantial portion of the construction and renovation projects each year, a design competition among no fewer than three architectural firms is to be held to select the project architect. In particular, competitions are to be held on:

(1) major renovation projects on historic buildings;

(2) construction projects for buildings of high public use or visibility, including all "monumental" buildings authorized under section 303 of the bill; and

(3) projects posing special design problems.

Section 602(b) requires the Administrator to indicate each year, in the program required under section 801 of the bill, with respect to which construction and renovation projects he proposes to conduct design competitions.

Section 602(c) stipulates that a significant portion of each year's competitions are to be conducted to last no longer than sixty days and to elicit only preliminary design concepts from the competitors.

Section 602(d) directs negotiations for a design contract to be opened first with the firm judged in a competition to have demonstrated the best design approach. When a selection is announced following a competition, GSA is to make public and provide to all competing firms a brief report describing the selection criteria.

Section 602(e) authorizes payment in total stipends or prizes to be divided among all of the firms that take part in any one competition, no more than one-half of one percent of the expected cost of project design and construction. GSA is to conduct each competition under rules and procedures that will assure that fair compensation for work required from the firms would not exceed that amount.

Section 602(f) authorizes the Administrator to hire privately employed architects, engineers, and other citizens on a temporary basis to serve on design competition judging panels. Persons so employed are exempted from the provisions of section 201(a) of the Ethics in Government Act of 1968.

Discussion

Private architects are screened and commissioned to design government projects under procedures established pursuant to Public Law 92-582, the "Brooks Bill." That act requires that architectural and engineering firms be selected upon the basis of "demonstrated competence and qualification." For each proposed project, an agency head is required to evaluate various firms' "current statements of qualifications and performance data" and to "conduct discussions with no less than three firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services."

In a July 21, 1976, report to the Congress (GAO Report No. LCD-75-313), the General Accounting Office reported that discussions" with firms seldom went beyond the firms' presentations about their past projects. GAO went on to say: ". . . discussions dealing only with A-E firms' past accomplishments do not, in our opinion, afford the Government a sound basis for evaluating proposals for a new project."

The "discussions" are open to the public but rarely noticed. Final selections are made by in-house boards and, from the GAO report, it is clear that the selections are made on the basis of past reputation and credentials of firms' members. The system seems to work in favor of those firms that look good on paper, that promise to deliver safe. noncontroversial designs, and that government officials know and like.

The system, as it now operates, does not ensure that Federal commissioning of design professionals is based on a competition of present talent and creativity, rather than past friendships and reputations. In nearly every other major selection of material or personal services, the government adheres to policies and procedures that encourage choice from a range of competing proposals advanced by private enterprise—proposals that typically differ in their design or methodological approach, their application of technology, and their ultimate cost. Selection of architectural services is a singular exception to this practice.

Architects have long been familiar with a competitive selection system, but the Federal Government has not used it extensively since the turn of the century. Design competitions require architects and associated designers to submit the concepts and approaches they would use if given a commission. (Selection for Federal design commissions should not, however, in any way be tied to competition over proposed fees for design services. Design fees are a small persentage of overall construction costs; they become even less significant in light of the fact that construction costs are only a small percentage of the long-term costs of operating a building and doing business in it. It would be short-sighted to emphasize small differences in immediate costs and so forgo possible design ideas that could save large sums in the long run.)

Design competitions provide a forum in which designers, responding to the competition "program", engage in a dialogue with the client. Competitions expose to light widely varying ways of meeting specific building needs. They provoke public interest in the design "debate" reflected in the various entries—and they allow the public and the press to see and judge for themselves the materials presented to the competition jurors. In order to make sure that the press and public have every opportunity to scrutinize selection decisions, section 602(d) requires that GSA prepare and publish after each competition a report describing the criteria used to select the winner.

Design competitions in Federal practice, like in-house design, are as old as the Republic. The White House and Capitol building in 1792, the Smithsonian Institution, Washington Monument, and Library of Congress in the 19th century, were all the subjects of design competitions. In 1893, with forceful backing from the American Institute of Architects, Congress passed the Tarsney Act, which provided for the hiring of private architects for specific Federal projects—a departure from the prevailing in-house design policy—but only through design competitions. Under the Act, repealed in 1912 following a congressional committee finding that in-house design was less costly, the Ellis Island Immigration Station in New York harbor, the New York Custom House (still serviceable and now undergoing GSA renovation) and over 30 other buildings were constructed nationwide.

A few competitions for post offices were held in the 1930's. A competition for a Smithsonian Gallery of Art in 1939, although not built, produced the first Federal acceptance of the "modern" style in architecture. In 1974, a Task Force on Federal Architecture comprised of distinguished private architects and public officials under the aegis of the National Endowment for the Arts, recommended as one means of improving government design, that: "design competitions, properly financed, . . . be used to encourage public design concern and demonstrate government receptivity to new ideas and people." Officials of the Arts Endowment testified before the committee in 1977, 1979, and 1981 that the agency continues to hold that view.

Opponents of design competitions generally state that they are costly and time-consuming both for clients and designers, cumbersome and troublesome to manage, that they often reward spectacular, but unbuildable designs, and that they impede the establishment of an essential "dialogue" between client and designer. The Committee received testimony from other architectural experts who suggested that most of these objections can be overcome by carefully drafted competition rules and procedures, some borrowed from European countries where competitions are commonly used for public projects. In West Germany, Switzerland, and the Scandinavian countries, public competitions are more nearly the rule than the exception. The Royal Institute of British Architects has promoted their use in government projects, and has pioneered several innovative competition procedures that could provide useful models for GSA.

The bill incorporates means of cutting the costs of competitions to the competing designers—and of equalizing the differences in size and resources among them. Section 602(c) requires that a significant portion of the competitions conducted under the bill last no longer than 60 days from the time the competition program is delivered to the competitors until the winner is announced. Furthermore, these competitions are to elicit from the firms preliminary design concepts only. Under this latter provision, GSA should prescribe limitations as to the amount of detail and techniques of presentation permitted in competition submissions.

Successful competitions have been conducted in less than sixty days. In a form of competition called a "charette," for example, typically only a few members of each of several firms are brought together (often at the proposed site). In a few days to a week, they analyze the building program, meet with local citizens or officials and produce a tentative design plan or model.

As long as the time allowed in a competition is kept reasonably short, and the presentation techniques limited to uniform simple ones, large or wealthy firms have no inherent advantage over small or struggling firms. Talent and analytical abilities provide the advantage under these procedures.

Competition submissions need not be complete designs. One criticism of competitions has been that once a design is adjudged the winner, those involved are afraid to revise it, even if, on further detailed examination, changes appear called for. The purpose of the competitions authorized in the bill is to find the designer who demonstrates the best understanding of the government's needs and who shows the greatest promise of being able to fulfill those needs with the highest quality design. In order to satisfy this purpose, it is not necessary to require competitors to carry design concepts very far beyond their first articulation.

Criteria for judging submissions should be written so as to discourage selection solely on the basis of spectacular design renderings. Competition programs may, of course, stipulate that designs be buildable within a specific dollar, life-cycle or energy budget; such criteria may, however, involve detailed design proposals.

Where submissions suggest the selection of a designer who appears to lack the technical experience needed to see the project through to construction, he or she can be required to affiliate with a more experienced firm. This is a common requirement in West German competitions; some West German competition winners, instead, move into government offices to work with experienced in-house staff. Identification and nurturing of such design talent is an investment in the future quality of the nation's buildings.

Some architects have complained that participation in competitions costs them a great deal of money, that even if they win a prize they fail to recoup their investment, and that there is small chance that they will win a prize at all. Despite these complaints, competitions seem to attract a large number of participants. Moreover, architects and other designers, under the Brooks Bill and non-competition selections in the private sector, are not without expenses in making presentations of past work and soliciting potential clients. Nevertheless, the section contains safeguards that will eliminate much of the excess cost to the profession. Limitations of time and presentation techniques alone will curb most of these expenses. Further, section 602(e) stipulates a maximum amount that may be distributed among competing firms as stipends and prizes in each competition. (Travel and lodging expenses, as well as compensation and expenses of non-Federal jurors, would be additional expenses not covered by the limitation.) The section requires that competitions be managed in such manner that the stipends and prizes cover at least the fair labor and materials costs of each firm's participation. (Stipends and prizes are usually awarded only in the second stage of an open, two-stage competition. In such a competition, so long as first-stage entrants are not required to undertake extensive work, it is not intended to require that first-stage entrants be compensated.) Cost data on competitions compiled by one of the witnesses who appeared before the committee indicate that the one-half of 1 percent of design and construction costs allowed as the maximum amount out of which stipends can be distributed to the competitors is a generous sum for such purposes.

Subsection 602(a), which stipulates those projects that are to be the subject of competitions, is the result of a revision during the 1981 markup. The earlier versions required competitions to be held on half of all projects costing $5 million or more. Several witnesses before the committee suggested that this was both too rigid and too vague a requirement—too rigid in that the $5 million figure was arbitrary, and too vague in that not all projects are fit subjects for competitions.

The subsection requires competitions be conducted on a "substantial portion" of the construction and renovation projects each year. (Renovation projects are defined in section 113 as those significantly enhancing the use or architectural design of a public building.) A substantial portion is intended to mean about a third to a half of the projects.

The subsection also provides GSA with guidance as to the kind of projects that should be selected as the subjects of competitions. By and large, these are projects that provide interesting design problems and that promise to be noticed by the design professions and the public at large. Accordingly, they are projects that should attract competitions and that promise to reward with recognition hitherto little known architects who might win competitions by dint of their industry and imagination.

The section is silent on the manner in which firms might be selected to participate in limited competitions. It also does not stipulate the composition of competition juries. These matters are left up to the discretion of the Administrator, who is encouraged to compare and evaluate different approaches. The Commissioner of Public Buildings in the last Administration informed the committee that the GSA General Counsel has ruled that private design professionals sitting on GSA designer selection panels must, under provisions of section 201(a) of the Ethics in Government Act of 1968, file detailed financial disclosure statements. Since this could act as a deterrent in recruiting successful practitioners to sit on competition juries, section 602(f) exempts any privately employed person serving on a selection panel or jury under section 602 from the provisions of section 201(a) of the Ethics in Government Act. The section simply facilitates the service of private citizens on such panels. Although the services of private design professionals, experts, and laymen would doubtless be extensively used, no stipulation is made as to the nature or extent of private participation in judging competitions.

Ultimate responsibility for managing and evaluating competitions should lie with the Supervising Architect. The Supervising Architect's staff might serve as administrators of individual competitions, or as jurors, and they should write, or supervise the writing of the competition "programs" that describe the key elements and goals of building projects.

The quality of the program document for a project is the most important single determinant of success or failure of the design process. The program becomes even more critical in a competition—programs too vaguely written are so open to different interpretations that there may be no fair, equal basis upon which submissions can be judged; voluminous, detailed programs, on the other hand, can stifle design creativity and lead to arguments over, and judgments based on minor details rather than overall design quality. By conducting a program of regular competitions, the inhouse GSA staff should become proficient in writing programs and conducting other aspects of fair and effective competitions.

The competitive procedures authorized in this section are wholly consistent with the provisions of Public Law 92-582. A firm judged to have won a competition is to be the first object of negotiation for a design contract, as provided for under section 904(a) of the Federal Property and Administrative Services Act of 1949, as amended. Should negotiations with the winner fail, then negotiations are to be commenced with the second-place firm, as provided for under section 904(b) of that Act.

In some public European competitions, the firms judged second or third place winners receive commissions for subsequent projects. Such a procedure would appear to be in accord with the provisions of Public Law 92-582, as long as the public announcement required pursuant to section 902 of the Federal Property and Administrative Services Act indicated that the announced competition would possibly lead to commissions for two subsequent, specifically identified projects.

TITLE VII—LEASING

SECTIONS 701 AND 702—POLICIES ON GOVERNMENT OWNERSHIP OF SPACE

Summary

Section 701 establishes the general policy of the United States to house employees of the Government in federally owned space. Space may be leased: (1) to accommodate the emergency or temporary requirements of the Government, (2) to provide space in locations where the magnitude of Government activities does not warrant providing a public building, and (3) to take account of temporary economic conditions that render construction or acquisition of necessary Government-owned space to be infeasible or disadvantageous to the Government.

Section 702(a) requires GSA to base its recommendations for projects and actions to meet the space needs of the United States on a realistic comparative analysis of the benefits and costs of the available alternatives—construction, acquisition, and leasing. Any proposals for projects or actions at variance with the results of such a comparative analysis shall be explained by the Administrator.

Section 702(b) directs that nine months after enactment of this legislation the Office of Management and Budget, the

Congressional Budget Office, and GSA shall jointly submit a report to the public works committees of the Senate and the House establishing the comparative methods to be used for the above purposes. The report may be prepared with the assistance of experts from private industry.

Subsection (c) declares that it is the sense of the Congress that long-term economies would be realized by providing—within 10 years—Government-owned space for 75 percent of the employees whose offices are provided under this Act.

In order to attain this percentage of offices to be provided in Government-owned buildings, GSA shall reduce the average amount of space assigned to each employee, acquire or construct public buildings, or utilize any combination of these actions, as necessary.

To the extent possible, Government-owned office space shall be provided uniformily throughout the Nation, except that GSA shall take into account comparative local vacancy and rental rates, and other market conditions and program considerations in order to maximize the economic benefit to the Federal Government and to minimize economic disruption to localities.

Discussion

Over recent years, in successive Democratic and Republican administrations, the Office of Management and Budget, in the short-sighted pursuit of budget trimming, has forced a drastic curtailment of Federal office space ownership and a concomitant increase in leasing. For example, twenty years ago, 82 percent of the Federal employees provided office space by the GSA were in Government-owned space. Now that figure is down to 51 percent.

According to a report of the General Accounting Office (GAO Report LCD-80-7, October 17, 1979), from fiscal year 1966 to fiscal year 1979, there was no appreciable increase in Government-owned space while leased space increased by over 100 percent, from 44.6 to 93.3 million square feet. Annual rental payments of the GSA in the same period increased from $131 to $520 million.

More recent information derived from GSA's fiscal year 1984 budget justification shows a slight decline in and stabilization of the amount of rental space. Leased space for fiscal year 1982 totaled 91.2 million square feet; projections for fiscal years 1983 and 1984 are 91.1 and 90.1 million square feet respectively. Despite this leveling in the amount of leased space, rental costs continue to rise faster than most other expenses. For fiscal year 1982, 38.7 percent of new obligational authority requested by GSA was for the rental of space. The corresponding shares for fiscal years 1983 and 1984 are 40.9 percent and 41.0 percent. Dollar amounts requested for the three years have increased even more rapidly: from $722 million (1982) to $806 million (1983) to $881 million (1984) By comparison, construction expenditures for fiscal year 1983 were $79.5 million (4 percent of the budget); for fiscal year 1984, $132.5 million (6 percent of the budget). At the present rate the rental bill will break the $1 billion mark in 1986 and will approach $2 billion in fiscal year 1993.

This turnabout from government ownership to leasing in the public buildings program occurred—in part—because leasing has the short-term budgetary advantage of required a fraction of the outlay, in any given year, required to construct or purchase a building. Despite its extraordinary long-term costs, the misleading short-term economy of leasing appeals to government budget-cutters. In order to mask the long-term costs of leasing, the Office of Management and Budget has skewed the assumptions and procedures upon which the GSA makes its economic analyses of whether to lease or build in individual instances. When comparing building and leasing the GSA performs "present-value cost analysis." This is a sound practice, borrowed from private industry. In recent years, nearly all of those analyses have come down in favor of leasing.

A GAO report to the committee (GAO Report LCD-80-61, June 20, 1980) explained why in its title: "GSA Lease versus Construction Present-Value Cost Analyses Submitted to the Congress were Inaccurate." Among other inaccuracies, GAO noted several that arose from OMB guidelines prescribing how GSA should compute the cost comparisons. The June, 1983 Congressional Budget Office report, "The Federal Buildings Program: Authorization and Budgetary Alternatives," states the matter quite clearly: "The CBO analysis . . . finds that several aspects of the decisionmaking process do indeed skew choices in favor of leasing. . . . The current structure of the FBF (Federal Buildings Fund) exhibits a pro-leasing bias that reinforces more widespread biases resulting both from general fiscal pressures to limit spending government-wide in the short run and from deficiencies in long-range planning for federal space needs."

CBO notes that GSA's failure to carry out long-range planning has meant that "meeting future space needs by construction is difficult because of the long lead time required for planning, design, and actual building. As a result, the leasing of buildings already constructed has been necessary to meet unanticipated space requirements."

The GSA completed a study in 1980 that makes the point forcefully. The GSA studied comparable construction and lease pojects in 126 geographic areas and demonstrated that, using the correct interest rate identified by GAO and appropriate inflation rates and other factors, "the evidence would support an economic decision to build rather than lease in most cases." Using the OMB requirements, however, "will almost always result in a lease decision."

Because of the skewed assumptions and irregular application of the current methods used for "present-value cost analysis", section 702 mandates the preparation of a report establishing an appropriate methodology. It is anticipated that the bias which favors leasing over the construction of public buildings will no longer characterize the revised methods jointly promulgated by GSA, the Office of Management and Budget and the Congressional Budget Office.

The GSA stated in its 1980 study that a ratio of 80 percent federally-owned space to 20 percent leased space would be the most cost-effective combination, and would satisfy the Government's need for leased space to accommodate temporary and changing Federal agency requirements.

Ever since the Committee began expressing concern over the inordinate magnitude of government leasing, it has been apparent that dispute exists over the appropriate ratio of Government-owned to leased space. It turns out that the "discount rate" is the key element in the formulas used to indicate whether ownership or leasing is more economical in the long run. OMB has mandated that GSA use a discount rate of seven percent. The General Accounting Office believes two percent to be correct. CBO recommends three percent.

The CBO report points out the impact of the differing rates:

> When cost comparisons incorporate a 2 percent discount rate, consistent with the historical real rate of all Treasury borrowing, construction would be the preferred alternative for about four-fifths of all projects, according to CBO analysis. If the comparisons use the CBO 3 percent rate, construction is favored in nearly two-thirds of the cases, and the space converted to construction would eventually save about 30 percent, on a present-value basis, relative to leasing. At the OMB 7 percent discount rate, on the other hand, the construction option is more economical in about one-third of the cases and in the long run, savings relative to leasing average only $9 for every $100 spent (see Table 8).

TABLE 8.—INCIDENCE AND DEGREE OF PRESENT-VALUE SAVINGS FROM CONSTRUCTING RATHER THAN LEASING UNDER SIX DISCOUNT RATES

[In percent]

Real discount rate	Comparisons supporting construction [1]	Average savings (relative to leasing) in which construction is less expensive	Average cost increase in which construction is more expensive
2	83	31	49
3	64	30	39
4	58	24	51
5	45	20	56
6	36	16	62
7	34	9	77

[1] Results weighted to reflect amounts of leased space in areas where projects were compared.

Source: Congressional Budget Office.

The Public Buildings Service Management Plan for fiscal year 1982–88, the most current submitted to the committee by GSA, reports two recent trends which are expected to affect significantly the mix of owned to leased space. GSA projects a decline in the size of the Federal workforce over the next five years and improvement in the space utilization rate per employee. These two factors enable GSA to establish a goal of housing 79.6 percent of Federal personnel in Government-owned buildings by 1991, without a substantial Federal building program.

Section 702(c) states that it is the sense of the Congress that long-term economies would be realized by providing that, within 10 years, no fewer than 75 percent of Federal employees be housed in Government: owned space. It is not the intent of this section to embark the Government upon a massive construction program to reach this goal.

Improved space utilization—by reducing the need for leased space and permitting the more efficient use of Government-owned space—is the most cost-effective approach to attaining this goal. The Committee approves the recent initiative of the General Services Administration to set a space utilization goal of 135 square feet per employee, with interim targets set and enforced through the agency's Federal Property Management Regulations. Success in this endeavor would go far in reaching the ratio of Government-owned to leased space expressed in section 702(c). To the extent that intensified space utilization does not bring with it attainment of the 75 percent goal—and the utilization effort alone probably cannot do the job—then purchase of existing commercial buildings—when justified by need, opportunity, resource levels, and economic analysis—and direct Federal construction—when cost effective—are appropriate means to generate additional Government-owned space.

The intent of section 702(c) is to redress the imbalance in the public buildings program by using the most economical means in the long run. A massive acquisition and construction program is not regarded as a necessary means for increasing the percentage of Government-owned space. But some modest increase in acquisition and construction effort will probably be necessary in order to realize the long-term economies to the Government which it is the intent of this section to provide the taxpayers.

The attached text and charts from the February, 1982 PBS Management Plan show changes in the owned-to-leased space mix over the period from fiscal year 1982 to fiscal year 1996. These pages demonstrate a cost savings of $11 billion to $12.3 over that period. The savings would be achieved by the combination of space utilization improvements and modest construction and acquisition projects suggested by section 702.

FY 84 CYCLE

PART II
GSA HOUSED POPULATION AND SPACE TRENDS

PLANNED POPULATION TO BE HOUSED AND INVENTORY CONVERSIONS FOR GSA-CONTROLLED SPACE

Space-needs projections in the PBS Management Planning System (MPS) are community based and are derived from forecasts in Federal-population-to-be housed in GSA-controlled space. There are currently 40 major communities in the PBS MPS for which Facility Plans are developed. For each of these communities housed population forecasts are made based on the Strategic Posture governing the seven year planning period. While nationwide population forecasts are developed as part of the Strategic Posture, proposed community population forecasts must be justified before the PBS Planning and Project Review Board as part of the regional plan validation process. The MPS translates population forecasts into agency housing needs and then into planned changes to the Facility Inventory.

As stated in the Strategic Posture, the PBS controlled inventory will be in a consolidation mode over the Plan Period. The need to consolidate presents an opportunity to identify and execute changes to the inventory to achieve the best cost-effective mix of facilities in these communities. Because the plan must accomplish inventory changes within current authorities and prospectus processing requirements, the changes in inventory are generally shown as a conversion to ownership by means of the build alternative. However, as each year of the plan approaches the execution year, the conversion and/or consolidation needs will be satisfied on a project-by-project basis through a build, purchase or new lease, whichever represents the better, more cost-effective solution.

The June 1981 edition of the Facility Plan documented the FY 81-87 need for new starts at approximately 31 million square feet at $5.9 billion or a conversion of about 14% of our inventory. Further refinement of these needs during the FY 82-88 cycle reduced the conversion needs to 28.6 million square feet or about a 12% inventory conversion. Repair and alterations to the inventory for the FY 82-88 period are planned at total authorization levels of $1.0 billion, consistent with the levels in the FY 81-87 plan.

The program level shown in Part III lists FY 82-88 project starts at 15.6 million square feet, or a 7% inventory conversion at $2.5 billion, mostly toward the latter part of the planning window as the Federal Buildings Fund (FBF) begins to generate sufficient income to handle a larger program than in the past. As currently planned, this program level meets 55% of the 28.6 million sq. ft. need, and is within the resource capability of the FBF.

COST SAVINGS FROM REDUCED DEPENDENCE UPON LEASED SPACE

Table 1 shows the longer term Government-owned/leased inventory changes that will occur with the 12% decline (by FY 88) in housed population and improved utilization rates.

At all program levels the total PBS controlled inventory drops from 229.8 million square feet at the end of FY 81 to the range of 180 million sq. ft. through FY 94 or a 22% reduction in the total inventory. The total inventory remains essentially constant from FY 90 on. The FY 81[5] mix of population-housed (see Fig. 3) in Government-owned space of 53% changes to the range of 80-85% by the end of FY 94. The first part of the change from 53/47 to approximately 75% is principally caused by the 12% population decline and the reduction in the space utilization rates. The range of the second part of the change, which falls in the range of 75-86% is a function of the FY 82-88 program starts.

The cumulative cost savings resulting from the 12% population decline and the reduction in space utilization rates are significant. They are projected to range from approximately $1.3 billion[6] through FY 87 to an amount approaching $11 billion through FY 96, illustrated by Figure 4[7]. On Figure 4 the line for the letter A represents the total FBF expenses if population remains constant at 1981 levels; the line for letter B is the total FBF expenses if population declines by 12% by FY 88; and the line for letter C is the total FBF expenses if B occurs as well as reductions in the utilization rate by FY 88. However, as shown in Figure 5, an additional $1.3 billion cumulative saving occurs when the full program is initiated in the FY 82-88 period as opposed to a more limited program at say starts of 800,000 sq. ft./year, similar to the comparative program used in the analysis in the FY 81-87 edition. It should be noted that present value analyses confirm these results.

This additional $1.3 billion in cumulative savings is realized for the FY 91-96 period as FY 82-88 starts are delivered into the inventory and begin reducing rental payments. Under the assumptions contained in the Management Plan, the 15.6 million sq. ft. of space converted to ownership can be fully amortized through rental savings by the end of FY 96 - measurably increasing the net asset value of the GSA facility inventory.

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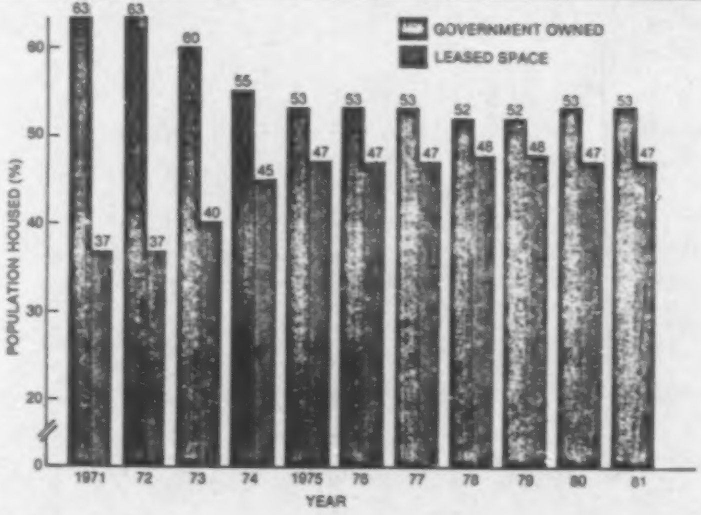
[5] See Fig. 3 for historical FY 71-81 pattern of population housed in Federally owned to leased space.
[6] Less dislocation costs.
[7] Cumulative savings are in then-year dollars. The present value of the $11 billion savings at a 7% discount rate is approximately $6 billion.

FY 84 CYCLE

PBS MANAGEMENT PLANNING SYSTEM

FIGURE 3 **Historical Mix of Population Housed in All PBS Controlled Government Owned vs. Leased Space**



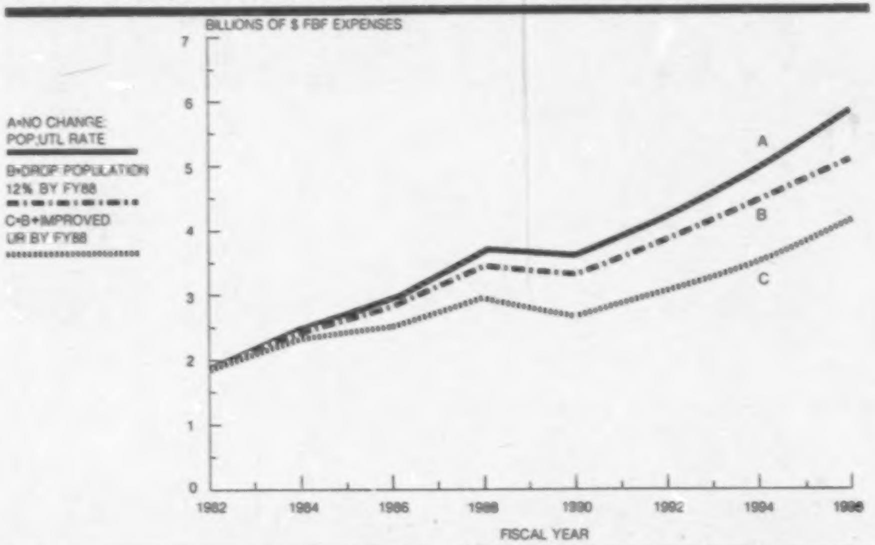
FY 84 CYCLE

FY 84 CYCLE

PBS MANAGEMENT PLANNING SYSTEM

FIGURE 4 14 Year Cumulative Savings: $11.1 Billion

12% POP. DROP; REDUCED UTILIZATION RATES; WITHIN FBF RESOURCES



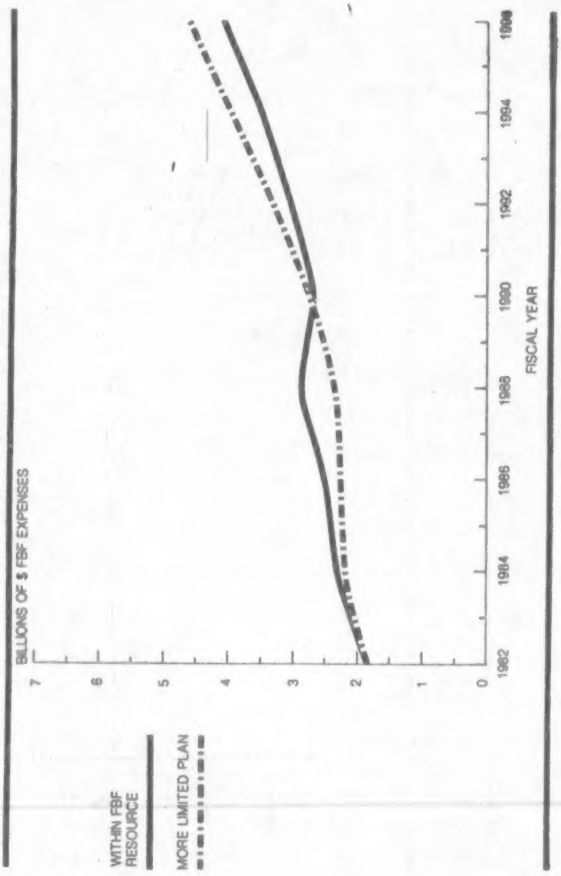
FY 84 CYCLE

FY 84 CYCLE 84

PBS MANAGEMENT PLANNING SYSTEM

FIGURE 5 14 YEAR CUMULATIVE SAVINGS: $1.3 BILLION

WITHIN FBF RESOURCES Vs. MORE LIMITED PLAN



FY 84 CYCLE

PBS MANAGEMENT PLANNING SYSTEM

TABLE 1 GOVERNMENT OWNED VS. LEASED INVENTORY CHANGES NECESSARY TO SATISFY 12% DECLINE IN POPULATION HOUSING REQUIREMENTS AND IMPROVED UTILIZATION RATES—WITHIN FBF RESOURCES

	81	82	83	84	85	86	87	88	89	90	91	92	93	94
				STARTS WILL AVERAGE 3 MIL. FT./YR. FOR FY 84-88										
SPACE (MILLIONS OF SQ FT)														
GOVERNMENT OWNED	143.2	143.5	142.9	143.0	143.2	145.4	148.9	151.3	152.5	152.5	153.7	156.3	160.1	163.6
LEASED	86.6	82.9	80.3	64.1	53.6	45.1	35.9	28.3	27.6	27.5	24.9	22.1	18.3	16.7
TOTAL	229.8	226.4	223.2	207.1	196.8	190.5	184.8	179.6	180.1	180.0	178.6	178.4	178.4	180.3
PERSONNEL HOUSED (MILLIONS)														
IN GOVERNMENT OWNED SPACE	.4657	.4661	.4677	.4891	.5152	.5473	.5763	.6033	.6093	.6093	.6156	.6324	.6566	.6668
IN LEASED SPACE	.4174	.3989	.3783	.3389	.2988	.2527	.2097	.1697	.1637	.1637	.1574	.1406	.1164	.1062
TOTAL	.8831	.8650	.8460	.8280	.8140	.8000	.7860	.7730	.7730	.7730	.7730	.7730	.7730	.7730
PERSONNEL HOUSING RATIOS (%)														
PERCENT HOUSED IN GOVERNMENT OWNED	52.7	53.9	55.3	59.1	63.3	68.4	73.3	78.0	78.8	78.8	79.6	81.8	84.9	86.3

Section 702 also provides that in attaining these goals, geographic uniformity should be achieved and maintained throughout the Nation to the maximum extent possible.

In carrying out this program, GSA should follow the location criteria established in title II and also carefully plan the location of new public buildings with full regard to local market conditions. In assigning priorities to competing building projects, preference should be given to localities that have a shortage of office space. It would be inappropriate to construct a new Federal office building in a locality that already has a glut of vacant office-building space, especially if another locality for which a new Federal building is also planned has a shortage of office space.

This provision should not be interpreted to justify a public building in a geographic area solely on the grounds that such area has no public building or relatively less Government-owned space. Decisions to construct Federal buildings are to be made on the basis of need as provided elsewhere in this Act. Locaton policy is to be guided by title II of this Act. Geographic dispersion is a factor to be considered in assigning priorities to otherwise justifiable projects, not in determining need or justification for projects.

In addition, the timing for the development of projects should be coordinated with the expiration of leases. Occupancy dates generally should be planned so that they correspond to the expiration of leases to avoid rental of vacant space.

SECTION 703—LEASE CONSTRUCTION SAFEGUARDS

Summary

Section 703 requires that prior to agreeing to a commitment that will cause the construction of a building other than a Government-owned building (so-called "lease construction" projects) the GSA must (1) establish specifications for the building comparable to the criteria for the construction of Government-owned buildings, (2) secure the option to purchase the building at any time during or at the conclusion of the lease term or explain the reasons for not doing so, and (3) solicit the lease acquisition through competitive procedures in conformance with the provisions of section 706 of this bill.

Discussion

Section 703 is intended to establish safeguards on the so-called "lease construction" method of acquiring space, under which the Government contracts to lease a building to be built by private interests. This method of acquisition has become more and more commonly used by GSA in recent years to house permanent Government functions. This method of acquisition is to be utilized in the future, only within strict limitations.

Under the lease-construction method, the Government commits itself in advance to lease—usually for 20 years—a building yet to be erected. The developer-owner selected to receive the lease usually uses this Federal guarantee to obtain private construction financing. With the protection of the standard GSA annual lease escalation clause to shield him from rising costs, his risks are minimal and his potential financial rewards substantial.

The high stakes and speculative nature of "lease construction" may also invite pressure, influence, favoritism, and improper inducement in the selection of the winning developer. This concern is heightened under the current practice of selection on the basis of closed negotiations with a GSA contracting officer. The bill will permit these selections to be made only through an open and competitive procedures.

All too often, "lease-construct" leads to speculative-type buildings which yield to the Government facilities inadequate in location and design and afford to the Government little say in the soundness, functionality, or appearance of the resulting building. Of course, the device provides the Government no equity in the building for all the years of rental payments—and truly results not in a "Federal building" but in a private commercial building with guaranteed Federal tenancy.

The bill will require any lease-construction buildings to meet the same standards of design and durability as Government-owned buildings. It also requires the Government to have the option to purchase the building at some point during or at the end of the initial lease term. The Administrator must justify to the Public Works Committees of the Senate and the House any decision not to secure such an option.

SECTION 704—POLICIES ON LEASING

Summary

Section 704 establishes policies on leasing. It declares that henceforth, except as may be necessary to meet temporary and urgent requirements that cannot be met in Government-owned buildings, additional space shall not be leased for: (1) major computer operations, (2) offices that conduct secure or sensitive activities related to the national defense or security, (3) activities that would require major alterations in the structure or mechanical systems of a leased building, and (4) permanent courtrooms, judicial chambers, or administrative offices for any United States Court.

Discussion

The Committee has discovered that GSA has made very large expenditures to alter buildings which the Government does not own. Such alterations or improvements must usually be left in place when the Government vacates the building. Moreover, the alteration contracts are usually sole-source contracts with the lessor. Some leases require that alterations be made to restore the space to its original condition when the Government moves out. The Committee is particularly concerned about instances of alternations being undertaken shortly before a lease expires.

Section 704 discourages leasing of space for activities which would require that there be major alterations in the structure or mechanical systems of a leased building, and for major computer operations, which are expensive and disruptive to install or move out.

Permanent courtrooms, judicial chambers, or administrative offices of the United States Courts, are not to be housed in leased space; these are to be accommodated in dignified surroundings built or renovated for their purposes.

The sensitive national security functions of the Government also require specially designed space. These functions have sometimes been provided rented space in private buildings constructed without even rudimentary security measures. Classified files should not be located where only a thin wall separates them from space that may be rented by anyone on the open market. Security features in these buildings are usually added later, at Government expense. One unfortunate result is that the Government, conscious of its capital investment in such buildings and the disruption to activities attendant upon a relocation, is loathe to vacate. The building owners know this, too, and negotiations for lease renewals are accordingly concluded on terms overwhelmingly favorable to the owners.

The same situation also seems to occur in the case of nonsecret Government offices where the amount of space leased is large or where computers or other special equipment have been placed in the building. The Government can be a most lucrative tenant. The Committee uncovered situations in which the "competition" in bidding for Government leases appears to have been unnaturally and unnecessarily restricted. Following one hearing, the committee referred five of seven proposed GSA leases to the Inspector General of GSA. He later reported that three of the five appeared worthy of investigation for misfeasance. One of the leases was about to be renewed at increased cost, when the expiration date on the existing lease was still a year and a half away.

Needless to say, the Government has no say over transfers of ownership of buildings in which it leases space. The committee's attention has been called to a number of buildings housing Federal offices in the Washington area alone that have been sold to foreign interests. One of those buildings houses the Immigration and Naturalization Service, another the Army Corps of Engineers.

In the past GSA has often been forced into leasing space because the agency has failed to foresee future space needs and plan ahead for them. Consequently, as each new space demand has surfaced, the only space available to meet the demand has been in leased buildings.

GSA's previously inadequate planning will be improved by other provisions of this bill. This planning is to take into account the provisions of this title so that, in the future, leasing will not be the only alternative available to meet Federal agency space needs.

A most basic part of any lease is its expiration date. The Committee expects GSA to keep track of these dates and to plan well in advance of them, as it has not done in the past, so that alternatives are available when leases do expire.

SECTION 705—ECONOMY ACT REVISION

Summary

Section 705(a) states that for the purposes of this legislation, sections 321 and 322 of the Economy Act of 1932 shall not apply.

Subsection (b) states that no lease may be entered into for a rental exceeding current commercial rates and charges for space and services of nearest comparable quality.

Discussion

The Economy Act of 1932 states in part that no appropriation may be obligated or expended for rent of any space at any annual rental rate in excess of 15 percent of the fair market value of the premise nor for alterations, improvements, and repairs of the rented premise in excess of 25 percent of the amount of the rent for the first year of the rental term, or for the rental term if less than one year.

GSA states that the prohibition against paying rent in excess of 15 percent of the fair market value of the property could, in some cases, force the agency out of space now leased into more expensive space. For example, inflationary pressure have forced rental rates up to the point where they exceed 15 percent of the fair market value of some older buildings. Under the law, GSA would be forced from such older buildings into new buildings where rental rates may be even higher but, because the appraised value is greater, the higher rental rate complies with the Economy Act. In effect, the limitation could force GSA to pay higher rentals and restrict its ability to lease in older or historic buildings or in older neighborhoods. Market forces determine what rental rates will be. As long as GSA pays market rentals, the taxpayers' interests will be served as well as they may be.

Implementation of the Economy Act is expensive and consuming of GSA staff resources. The President's Reorganization Project in 1978 issued a report critical of the size and expenses of the GSA appraisal staff maintained to implement the Economy Act.

The revision in this bill would restrict GSA from paying rental exceeding current commercial rates and charges for space and services of nearest comparable quality.

SECTION 706—COMPETITIVE PROCEDURES FOR LEASE ACQUISITION

Summary

Section 706(a) specifies two procedures for the competitive procurement of leased space for the Government. At the discretion of the Administrator, either sealed bids or competitive proposals shall be solicited from responsible parties interested in providing space to the Government. The former procedure prohibits discussions with bidders; the latter permits negotiations with offerors. If a solicitation produces no acceptable responses, the Administrator is authorized to reject all bids or proposals received.

Section 706(b) authorizes non-competitive procurement of leased space under three circumstances: when suitable space is available only from a single source, when the need for space is urgent, and when a public solicitation would compromise the national security. Use of either of the first two types of non-competitive procurement requires the notification of the public works committees.

Discussion

Section 706 directs that—with three exceptions which are specified in subsection (b)—competitive procedures shall be utilized in the procurement of leased space for the Government. Two procedures are sanctioned. The system of formally solicited sealed bids is favored, but it is recognized that competitive negotiations with lessors may at times be necessary in order to acquire appropriate office space on the most favorable terms. Therefore, in addition to solicitations requesting sealed bids, GSA may advertise for the submission of competitive proposals. In either case, one of the intended purposes of this section is to encourage GSA to carry out procurements of leased space in an open manner, subject to public scrutiny.

Private, negotiated settlements in which information about offers or the progress of negotiations are kept secret during the process can create a climate conducive to the exercise of pressure, influence, favoritism and improper inducement. Offering all qualified individuals an opportunity to compete will help to minimize favoritism and provide greater assurance that acceptable space will be obtained at the most economical rental.

A second purpose of this section is to maximize competition to the extent possible in procurement of leases. At times in the past, GSA has placed artificial restrictions in solicitations for leased space which had the effect of unduly limiting competition. For example, requiring that space be within a narrowly delineated area, or that the space be of a particular configuration or on a specified number of floors reduces the number of offerors who may meet these special requirements. Recognizing that special requirements are sometimes necessary, such restrictions that reduce competition should be held to a minimum and should never be utilized to artifically or deliberately restrict competition to one or a few offerors. Section 706(a)(1) explicitly states this point.

In some cases, the Committee has found that GSA rejected potential lessors as unacceptable because of alleged deficiencies in their buildings. Then GSA accepted offers on other buildings that contained the same deficiencies. Whether sealed bids or more informal competive proposals are chosen as the appropriate method for solicitation of leased office space, GSA should guard against such abuses and ensure that a maximum degree of competition prevails in all cases.

Competition is almost nonexistent on follow-on lease actions (succeeding leases, lease extensions, superseding leases, and lease renewals). In almost all cases received by the Committee, GSA negotiated only with the present lessor. The General Accounting Office reported to the Congress that it reviewed 65 lease awards and 43 follow-on lease renewals and found that GSA negotiated with only one offeror on 55 percent of the new lease awards and 95 percent of the follow-on leases. The negotiated rent exceeded the appraised fair annual rent in 33 percent of lease awards.

GSA should take measures to increase competition in procurement and to open the process of procurement to greater public scrutiny. While the sealed bid procedure is not the exclusive award process authorized in this bill, it does assure greater public scrutiny and should be used whenever possible.

SECTION 707—PURCHASE OPTIONS

Summary

Section 707 authorizes GSA to include an option to purchase a building in a lease agreement if the cost of purchase is specified separately from the cost of lease payments and both costs are first authorized in accordance with the provisions of title VIII of this Act.

Discussion

GSA, in the opinion of its counsel, does not now have the authority to lease a building with the option to purchase it at the end of a specified period of time. This section provides such authority but requires that a careful distinction be drawn between the cost of lease payments and the purchase price of the building. This separate accounting of the two types of expenditure is designed to prevent arrangements whereby title to the building is transferred to the Government at the end of the lease term for an additional dollar and the real cost of exercising the purchase option is merged with the lease payments. Such a practice violates the principles of full disclosure, an important element in maintaining the accountability of government to its citizens.

The authority to include purchase options in lease agreements gives GSA yet another means to acquire Government-owned buildings and carries with it new opportunities and responsibilities. Its use could assist GSA in meeting the goals of Government ownership established in section 702 of this legislation and may also enable GSA to take advantage of market conditions to obtain real property when the best interest of the Government is thereby served. However, GSA should not routinely request the authority to append purchase options to leases; acquisition of buildings through this means should be selective, based on building quality and analyses of economic benefits.

SECTION 708—LEASE AGREEMENT CIRCULATION

Summary

Section 708 requires GSA to provide copies of the lease between the Government and the building owner to agencies it houses in leased space.

Discussion

In the past, GSA policies did not allow agency representatives to see leases convering the buildings they occupy. This policy does not permit agency employees who are housed in the space to monitor firsthand the level and kind of services required of building owner by the lease agreement.

The policy also does not foster good relation between the GSA and its client-agencies. The Committee encourages GSA to establish better working relationship with its constituent agencies, and the Committee expects that GSA not only to supply the tenant agencies with copies of lease agreements but also to consult with them periodically, both before lease renewals are signed and during the course of those leases.

TITLE VIII—CONGRESSIONAL AUTHORIZATION

SECTION 801—ANNUAL PROGRAM AND FIVE-YEAR PLAN

Summary

Section 801 requires GSA to submit to the Congress near the beginning of each calendar year a program of the Public Buildings Service for the next fiscal year and a five-year plan for accommodating the nation's public building needs.

Subsection (b) requires the Administrator to certify that locally elected officials have been afforded the opportunity for a public hearing in the locality of each major construction, renovation, or acquisition project included in the annual program. It also requires that he provide to the Congress the final environmental impact statement, if required pursuant to the National Environmental Policy Act, on projects contained in the annual program.

Discussion

Section 801 is designed to provide the Committees and the full Congress with the information necessary in order to authorize an annual program for GSA in accordance with sections 802 and 803 of this bill. Under the current system, proposed projects are referred to the Committee on Environment and Public Works of the Senate and Committee on Public Works and Transportation of the House one by one, throughout the year, without regard to the availability of appropriations, and without any logical explanation of the priorities of needs represented by the proposals. They do not require the consideration of the full Senate or House. They do not require the concurrence of the President. They do not fall within the provisions of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93-344) and therefore are outside the congressional budget process.

Some opinion holds that the Public Buildings Act of 1959 can do no more than act as a restriction on the Appropriations Committees, and that prospectuses cannot finally limit or direct the executive branch, because the Constitution does not provide that Committees may act in the name of the full Congress.

The Committee has been greatly concerned that the prospectuses and the system of authorization by resolution are inadequate and inappropriate. The system adopted in this legislation would allow the Congress to evaluate GSA's overall program once a year, and to enact an annual authorization bill as the orderly framework for the agency's annual appropriation. It would also enhance congressional oversight of the Public Buildings Service. At present, the Committees receive and act upon major projects only—projects exceeding $500,000 in cost. Neither the Office of Management and Budget nor the congressional authorizing committees review small projects. This legislation would provide oversight of the entire program.

Section 801 requires GSA to submit annually to the Congress a program for the next succeeding fiscal year and a five-year plan for accommodating the GSA-administered public buildings needs of the United States.

The submission of these reports should be simultaneous with the submission to the Congress of the Budget of the President. The statutory requirement that the reports be submitted not later than the fifteenth day after Congress convenes each year corresponds with the timing of the Budget submission contained in the Congressional Budget and Impoundment Control Act of 1974, P.L. 93-344. The Committee would not expect that GSA's program precede the President's Budget. On the other hand, to enable the Committee to meet the March 15 reporting requirement contained in the Congressional Budget Act, neither does the Committee expect the submission to be delayed subsequent to the Budget submission.

The five-year plan required by section 801(a)(1) is not intended by the Committee to be a paperwork exercise without impact on the decision-making process. In two of the past three years, GSA has prepared a Public Buildings Service Management Plan. Although this planning document is a step in the right direction—a strategic posture is developed and long-term Federal work-force and office space trends are analyzed—no clear connection between space needs and project priorities is established. Space needs are addressed as program-wide aggregates influenced by such factors as workforce reductions, space utilization rates, and target ratios of government-owned to leased space. How the particular mix of projects selected for each year of the plan contributes to meeting space needs or other planning objectives is never revealed.

No planning process can be effective without an adequate means of assessing needs and ranking them comparatively. Discussions with GSA officials suggest that program needs are determined at the regional level and result in the compilation of lists of recommended projects. National project priorities are the product of choices made by GSA headquarters officials from the "menus" submitted by the regions. There is no evidence to suggest that regional office determinations of how Federal agency space needs should be met—through leasing, construction, or purchase of space—are shaped by guidelines which reflect national objectives and goals. Long term goals such as increasing the ratio of federally owned to leased space should influence decisionmaking at the regional level so that final project choices effectively address both national policy priorities and local needs.

Currently, neither the formal documentation of GSA's planning process nor informal discussions with GSA officials explain the rankings of projects in the annual program or why a particular project appears in this year's program rather than next.

In the final analysis the success of a planning process is dependent upon the commitment of an organization's top leadership to it. GSA has the rudiments of planning in place, but policy choices seem all too frequently to bear little relationship to the planning process. This observation suggests that GSA's management uses planning documents merely to record decisions made on an ad hoc basis and without benefit of the discipline that a well-designed and effectively used planning process can provide.

The annual program report required by section 801(a)(6) is to include a thorough evaluation of needs and plans for the coming year; a list of priorities for construction, acquisition, and renovation projects proposed for appropriation in the next fiscal year, and the estimated total cost of each. The report should include a description of how the projects comprising in the program, separately and together, conform to the provisions of this act; it should also describe how each conforms to the annual plan and the five year plan.

In addition, the report should contain a list in priority order of all lease and lease renewal actions scheduled in the coming year—regardless of the size of the space to be leased or the anticipated cost of the lease—including the estimated total cost of each lease over the entire term of the lease.

It also should provide a list of all public buildings proposed to be vacated in whole or in part, to be exchanged for other property, or to be disposed, and a proposed budget for the repair and maintenance of public buildings.

The report must contain a year-by-year program and estimate of costs to meet the provisions of section 702(c) of this Act. This year-by-year program estimate is to commence with the year of enactment of this Act. For the succeeding years thereafter, the report should show the program and funds needed to house 75 percent of Federal officers and employees in Government-owned space by the tenth year from enactment. That is, for the purposes of reporting, the 10-year goal should not be treated as a moving goal if the schedule falls behind.

This year-by-year report is to be accompanied by an analysis of costs and savings of alternative programs. If the construction program necessary to meet the goal is not undertaken, what are the costs and savings? For example, if leasing is substituted for Government-owned space, what are the costs and savings associated with this alternative?

Finally, the report is to contain a list of design projects recommended by GSA to commence in the following fiscal year.

Subsection 801(b)(1) requires the Administrator to certify in the annual program that locally elected officials have been afforded the opportunity for a public hearing in the locality of each major construction, renovation, or acquisition project included in the annual program. "Major" means any construction or acquisition of a building of 10,000 gross square feet of floor space, any acquisition of a site at a total cost of $1 million or more, and any renovation having a total cost of $1 million or more.

Hearings on such projects will afford the opportunity for local officials and citizens to present their views and ideas and evaluate GSA plans. Hearings will enable GSA to evaluate the consistency of projects with goals and objectives of local plans. The economic and social effects and impacts of projects and conformance with other provisions of this legislation concerning location, design, and mixed use are also to be considered at hearings.

Section 801(b)(2) requires the Administrator to submit, along with the annual program, the final environmental impact statement on any project in the annual program, if such a statement is required pursuant to the National Environmental Policy Act (P.L.

91-190). This requirement does not apply to any project for which an environmental impact statement is not required under NEPA.

In the past, GSA has not always given adequate attention to the environmental effects of projects and the spirit of the National Environmental Policy Act.

SECTION 802—LIMITATIONS ON AUTHORIZATIONS AND APPROPRIATIONS

Summary

Section 802(a) states that no appropriation shall be made by the Congress or obligated by the Administrator to carry out the purposes of this Act, unless it has been authorized by the Congress in accordance with section 803 of this Act.

Subsection (b) prohibits GSA from commencing any construction, renovation, or acquisition project unless an appropriation has first been made for the estimated cost of completion in the fiscal year for which such appropriation is authorized. Beginning in fiscal year 1985 no lease may be entered into unless an appropriation has been made for the estimated maximum cost of such lease over its entire term, including future cost escalations pursuant to contract, in the fiscal year for which such lease is authorized.

Section 802(c) provides, without regard to the full funding requirements of section 802(b), the authority to appropriate and obligate funds for the design of any construction or renovation project whose construction phase is proposed by the second succeeding fiscal year. Any such project must be included in GSA's five year plan and must be authorized for design in accordance with section 803. The authority established by section 802(c) expires at the end of fiscal year 1987.

Discussion

This section, and the annual authorization process contained in section 803 immediately following, mark the bill's most significant departure from existing practices in the public buildings program. This revision in the public building program's authorization process was the primary area of disagreement between conferees of the Senate and the House on S. 2080, the predecessor legislation to S. 533 and S. 452. A detailed explanation of the reasons for this reform is in order.

As the tables below show, the prospectuses that are approved in any given year generally represent nearly all of the year's funded new construction but:

Only about one-half of the repair and alteration budget;

Only about one-tenth of the leasing budget (and only about thirty percent of the total outstanding leasing obligation);

None of the building operations budget (including such things as cleaning and protection);

None of the administrative budget (including central planning, energy research, etc.).

As the Public Works committees necessarily concentrate their attention on their statutorily-mandated responsibility to review prospectuses, they therefore overlook most of the Public Buildings Service's program. The committees are diverted from overseeing PBS policy-making and operations, and even from monitoring approved prospectus projects. GSA, for its part, seems to regard matters not requiring prospectus approval as none of the committees' business, as can be seen from GSA's failure to inform the committees of even major policy changes. When responding to inquiries about specific space needs, GSA often says it will let the committee know "if a prospectus is required." The clear implication is that, if a prospectus is not required, GSA will respond no further.

Prospectuses are submitted by GSA throughout the year and are approved by the committees throughout the year. Prospectuses are sometimes approved by one or both committees years after their submission; alternatively, some are approved only days or hours after their receipt by the committees. Either eventuality makes it impossible for GSA to compile a predictable timetable for the public buildings program. Committee review and approval in these cases either cause interminable and costly project delays, on the one hand, or create the appearance of unseemly haste in judgment on the other hand.

Piecemeal submission, consideration, and approval of prospectuses preclude priority-setting by either GSA or the committees. Each prospectus submitted and approved appears to carry the same degree of urgency. There is little or no opportunity for analytically comparing prospectuses with respect, for example, to cost per square foot, or square feet per employee, or to compare the factors—such as employee crowding, age of existing building, etc.—which might be cited as justification for initiating projects. The sheer volume of prospectuses makes it impossible to give in-depth reviews to all, and yet, without an opportunity to compare all at once, it is nearly impossible to single out those which should undergo relatively more scrutiny.

Piecemeal approvals, and the fact that prospectuses once authorized are authorized forever, give the committees no incentive to keep their authorizations within realistic budget limits. A prospectus can be fully approved and lie dormant for years before it garners an appropriation. Since prospectuses carry no fiscal year authorization, the committees in any given year can approve many times the amount of funds expected to be available in the next fiscal year. It is indicative of this situation that the committees do not keep running totals on the dollar amounts of projects they approve. The attached charts illustrate that the committees' approvals in new construction and repair-and-alteration projects do not jibe with either the Administration budget requests for those categories or with Congressional appropriations.

The timing of repair-and-alteration prospectus approvals is so unpredictable that, in some years, GSA made a conscious decision to base its R&A budget request solely on projects that were already approved by the time when the budget had to be submitted to Congress. The appropriations committees do not know, until the day they go to final markup on the Treasury-General Government appropriation bill, what projects will win the approval of both Public Works committees and so be in competition for the limited public buildings funds.

It is in the nature of some prospectuses that the committees have little real alternative but to approve. Lease renewals, for example, present the committees with the Hobson's choice either to approve—or to disapprove and so evict Federal agencies from space already occupied without providing alternative space. Serious questioning of prospectuses proposing repair of a roof or upgrading of mechanical systems places the committees in the position of second-guessing, from Washington, determinations made by GSA technical personnel in the field.

Even in the small part of the leasing operation controlled by prospectuses, the committees' approvals have small bearing on the eventual cost of each lease. GAS leases carry escalator clauses that automatically increase the rent to match consumer price index and real estate tax increases. Prospectuses typically carry the notation that their approval authorizes GSA to decide whether or not to exercise renewal options (without further committee review) five, ten or more years in the future. GSA alters leased buildings, and frequently increases the amount of space rented under the lease (and concomitantly, of course, increases its rental payment) without committee approval.

Repair and alteration prospectus approvals are even less meaningful. Except for some major renovations, such as the Old Post Office in Washington which are carried out promptly and in close conformity to what is set out in the prospectus, R&A projects drag on for years and end up bearing little resemblance to the projects described in the prospectus.

As of September 30, 1979, GSA reported there were 112 approved R. & A. prospectuses that had not been completed. Only one project approved since 1975 had been completed; 28, or 25 percent of the total, were approved in the years 1970 through 1975; 10 or 9 percent, were approved from 1961 through 1969. In that span of time, inflation alone had so eroded prospectus authorizations that only a portion of the activities described in original prospectuses could be carried out. Moreover, PBS officials admit that as buildings' conditions change, or as new needs (such as enhanced fire safety and handicapped features) are identified the committees' approvals are freely intepreted and PBS carries out whatever work it deems necessary, regardless of what the prospectus may originally have proposed.

The 112 projects cited above carried total authorizations of over $746 million. Through fiscal year 1979, only $450 million of that total had actually been spent. GSA estimated that a backlog of about $228 million from these authorizations was still on the books on October 1, 1980.

In other words, GSA regards R. & A. prospectus approvals as general authorizations to respond to changing repair and maintenance needs. This is not an unreasonable position; it is, in fact, the way an annual authorization would explicitly allow GSA to manage its building maintenance program.

The only effective way to exert Congressional control, and to impose Congressional priorities on the public buildings program is through an authorization that comprehends the entire PBS budget. This is the only way, for instance, to force a gradual decrease in all leasing expenditures and a concomitant increase in construction funding.

Any effective authorization process must require that all projects and expenditures for a succeeding fiscal year be submitted at one time and that they be reviewed, amended as necessary, and approved at one time. It is a only in this manner that proposed projects and expenditure levels can properly be compared with each other and evaluated. This also encourages accurate Congressional accounting of total authorizations for any given year. Furthermore, the authorization procedures established in S. 452 would authorize major projects only for one fiscal year. Projects unfunded in that year would have to be re-authorized. There would be no backlogs of unfunded projects which could be used, as old R. & A. approvals currently are used, to rationalize current budget requests and appropriations. As a result, Congress would have tighter control of the amount and allotment of annual PBS expenditures and the authorizing committees would have greater influence in a corresponding manner over the amount and allotment of PBS appropriations.

PROSPECTUS AUTHORIZATIONS COMPARED TO PUBLIC BUILDINGS SERVICE BUDGET

	Prospectus approved by Environment and Public Works	Administration budget request	Appropriation (including supplementals)
1977:			
Leasing	$50,533,734	$473,200,000	$473,200,000
R. & A	218,061,345	60,700,000	110,700,000
Construct	53,602,000	28,100,000	32,800,000
Total	322,197,079		[1] 1,185,155,000
1978:			
Leasing	100,608,345	489,000,000	487,000,000
R. & A	40,054,860	204,731,000	487,000,000
Construct	226,893,000	17,354,000	69,700,000
Total	367,556,214		[1] 1,332,838,000

[1] Total PBS appropriation.

	Prospectuses submitted by GSA	Administration budget request
1981: Leasing	$64,306,274	$680,000,000

PROPORTION OF ANNUAL REPAIR-AND-ALTERATION BUDGET ACCOUNTED FOR BY PROSPECTUS AUTHORIZATIONS

	Total R&A appropriations	Over $500,000		Under $500,000
		Dollars	Percent	
Fiscal year:				
1977	$110,700,000	$52,748,000	48	$57,952,000
1978	200,000,000	119,237,000	60	80,763,000
1979	200,000,000	99,283,000	50	100,717,000
1980	155,024,000	49,953,000	32	105,071,000
1981	180,000,000	79,099,000	44	100,901,000

Prospects authorizations as a percentage of the PBS annual budget

Fiscal year 1977:	
Lease prospectuses approved	$50,533,734
R. & A. prospectus project funding	52,748,000
New construction funding	32,800,000
Total	136,081,734
(Total equals 11.4 percent of total appropriation.)	
Fiscal year 1977 appropriation	1,185,155,000
Fiscal year 1978:	
Lease prospectuses approved	$100,608,354
R. & A. prospectus project funding	119,237,000
New construction funding	69,700,000
Total	289,545,354
(Total equals 21.7 percent of total appropriation.)	
Fiscal year 1978 appropriation	1,332,838,000

Section 802(a) includes the restriction that no appropriation shall be made by the Congress unless it has been authorized by the Congress in accordance with this title. This binding restriction by the Congress upon itself is similar to the provision contained in the Public Buildings Act of 1959, which is elsewhere repealed by this act. In addition, the subsection adds the further restriction that no appropriation shall be obligated by GSA unless it has been authorized by the Congress (a practice now honored by the agency on projects requiring prospectus approval).

Subsection (b) states that no public building construction, renovation, repair or acquisition project shall be commenced unless an appropriation has first been made for the estimated cost of completion of such project in the fiscal year for which such appropriation is authorized. It further provides that no lease shall be entered into unless an appropriation has first been made for the maximum cost of such lease over its entire term in the fiscal year for which such lease is authorized.

This subsection requires that budget authority must be made for the total cost of completion of any construction, renovation, repair, or acquisition in the first year of work on it. Before a lease may be entered into by GSA, it must have an appropriation sufficient to cover the total estimated cost of the lease over its entire term.

This provision is consistent with the "full funding" concept of budgeting. Funds for all "out-year" obligations or outlays must be provided in appropriations in the first year as well as those funds expected to be required for obligation in the first year. Partial-year funding is not permitted.

This policy is consistent with the present practice for construction projects. Appropriations are made for the total estimated cost of completion before the work begins, even though obligations and outlays may extend over three to five or more years. However, at present, annual appropriations for renovations, repairs and leases reflect only the expected obligational level for the year for which the appropriation is made. The practice followed in construction should apply as well to renovation, repair, and leasing.

GSA's current commitment of expenditures for leasing is only dimly reflected in its annual appropriation requests for the rental of space. Leases represent contractual obligations which the Government must honor over the entire term for which they are valid.

A twenty year lease legally obligates payments over a twenty year period, but the Budget only reflects one year's cost. Thus the annual leasing budget, comprised of leases with varying fractions of their terms remaining, hides the actual obligation of the Government, the cost to liquidate these leases if the rental bill were immediately payable.

For example, the unaccounted obligation which will be required to liquidate existing GSA leases is about $3.4 billion. In fiscal year 1984, the Government is expected to enter into new lease contracts that will commit the Government to more than $1 billion, yet the 1984 Budget contains a request for about only $50 million to fund new leases during 1984.

Full funding of leases—merely an accounting change—would offer the Congress a more accurate disclosure of GSA commitments to spend federal funds. It is consistent with accounting practices in many other federal programs and with policies of the Office of Management and Budget, the Budget Committees and Appropriations Committees. The change would eliminate one of the so-called "uncontrollables" from future budgets by providing budget authority at the time the commitment of funds is made instead of requiring appropriations in future years to honor contractual obligations entered into years before.

Another consequence of the current accounting procedure is to incorporate a pro-leasing bias into the budgetary process generated by the pressure to limit budget figures in the short run—sometimes for political reasons—even if in the long run it commits the Government to greater expenditures. That is, decisions to lease rather than build may be made independently of the relative long-term economies of leasing versus ownership.

The second major provision of this subsection is to require that appropriations be made in the year for which they are authorized. The present system of project approvals or authorization is ad hoc and unrelated to any coherent Federal policy on buildings. When a prospectus is delivered to the Committee, it is often not tied to any funding schedule. The system tends to create a backlog of projects with little hope of funding.

The Committee bill provides an annual program and policy review, as well as providing for later project oversight. The Committee expects to review annually the proposed program of GSA—based upon the annual report submitted to the Congress pursuant to section 801 of this title—and report legislation to the full Senate authorizing appropriations for the coming fiscal year. Each such authorization bill will contain a program—that is, authorizations for appropriations—for one fiscal year. These authorizations are limited in duration. In this respect, the annual authorization bill is for an annual national buildings program, not for a series of independent or unrelated "projects". Work not funded by appropriation in the same year for which it is authorized would lapse, requiring reauthorization in a later year's annual program authorization bill.

Subsection 802(c) addresses arguments presented by GSA that the current single-step authorization of the design, site, acquisition, construction, design review, and management-inspection funds for either a new construction or a repair and alteration project has led to increased costs and delays of up to two years. A two-stage process, permitting the advanced design of proposed projects, would decrease their duration and cost and permit the Congress to exercise a more informed judgment by basing project construction approval on a project justification document which reflects 20 to 30 percent design completion.

Section 802(c) permits GSA, on a trial basis, to request authorization to design new construction and repair and alteration projects independently of its request for authorization to begin the construction phase of such projects. In providing this new authority to GSA, the Committee is mindful of its potential abuse. Advanced design authority is intended to promote the timely completion of necessary projects, not to generate a backlog of designed projects for which construction funding cannot be obtained. To encourage the judicious use of this authority, section 802(c) requires that candidate projects for advanced design appear in GSA's five-year plan, and that construction be proposed for no later than the second succeeding fiscal year after that for which design authority is being requested. This provision should limit the number and total cost of projects entering the construction phase in any given year.

The authorization of any project for design does not constitute and should not be construed to represent any form of commitment by the Committee to full authorization of its construction phase. Each project will be reviewed for potential construction authorization based on information GSA submits pursuant to the partially completed design effort. Unworthy projects will not be permitted to proceed and expenditures for design up to that point will be regarded as sunk costs. GSA has advised the Committee that advanced design authority remains cost effective if only $23 million of a proposed $100 million program receives final construction funding.

The willingness of the Committee to renew the authority provided by section 802(c) is totally dependent on GSA's degree of success with its implementaiton. Better designed and more timely public buildings projects will certainly predispose the Committee toward positive action at the end of its trial period.

SECTION 803—AUTHORIZATIONS FOR APPROPRIATIONS

Summary

Section 803(a) requires that annual bills authorizing appropriations for the Public Buildings Service be reported by the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation by May 15 for the fiscal year beginning October 1. Section 803(b) requires the Senate authorization bill and permits the House authorization bill to include specific line-item authorizations for major construction, acquisition, and repair and alteration projects. Section 803(c) instructs the conference committee responsible for the two authorization bills to consider as germane to conference all major construction, acquisition, and renovation, repair and alteration projects approved by resolutions of the House Committee on Public Works and Transportation by the May 15 reporting date. The aggregate monetary authorization reported by the conference committee shall not exceed the higher authorization amount of the two bills committed to conference.

Discussion

In lieu of the piecemeal authorization procedures established by the Public Buildings Act of 1959, section 803 establishes a coherent authorization process which will enable GSA to plan and implement an annual program. Consonant with the purposes of the Congressional Budget and Impoundment Control Act of 1974, annual bills authorizing the public buildings program are to be reported to the Senate and the House by the May 15 deadline. Recognizing differences in the internal requirements to pass authorizing legislation in the Senate and the House of Representatives, section 803(b) requires the Senate bill and permits the House bill to contain lists of major projects. In other words, the bill reported by the House Committee to the floor need not include line-item projects. Specific projects could continue to be approved by House Committee resolutions, and those approved by May 15 are deemed germane to the conference. Of course, the conference report would contain line-item projects, but under the rules of both the House and Senate, conference reports may not be amended.

The procedures established by section 803 reflect the Committee's understanding of concerns expressed by the House Committee on Public Works and Transportation with respect to the authorization process included in S. 2080 and S. 533. The House bill, as reported, could contain only dollar amounts for the six or so major categories of the public buildings program. Specific projects could be approved in Committee and not considered on the floor, except of course with respect to consideration of the conference report, which is not subject to amendment. There are sufficient safeguards included in S. 452 to insure that the guiding role of the House Committee in authorizing the public buildings program in the House will not be diminished relative to its current role under the Public Buildings Act of 1959.

Notwithstanding the disparity in the procedures by which major projects are authorized in the Senate and the House, section 803(c) requires the conference committee to limit the total monetary authorization to the higher of the levels set by the two authorization bills. This limitation insures that adequate fiscal restraint will be exercised in establishing the content of the annual public buildings program.

SECTION 804—AVAILABILITY OF FUNDS

Summary

Funds appropriated for construction, renovation, repair, acquisition, alteration or lease in accordance with section 803 are to remain available for obligation and expenditure without regard to fiscal year limitations, provided that, construction, renovation or acquisition has commenced in the same fiscal year in which funds for such purposes were authorized and appropriated.

Discussion

Funds appropriated for the entire term of leases or the total cost of construction do not expire at the end of the fiscal year for which they are appropriated, but remain available until fully expended, provided that such construction, renovation or acquisition has commenced during the same fiscal year such funds are provided. Funds appropriated for projects on which work has not begun in the same fiscal year such funds are provided shall lapse at year-end. Such projects would have to be re-evaluated in a subsequent annual program, and new appropriations would be required to start them.

SECTION 805—REPROGRAMMING OF FUNDS

Summary

Ten percent of the funds available for construction, renovation, alteration and repair may be reprogrammed for repair and alteration projects or leases acquired to meet emergency building conditions or changed Federal program needs certified by the Administrator to have been unanticipated at the time GSA submitted its annual program Obligation of reprogrammed funds is prohibited until thirty days after the Administrator provides the Senate and House public works committees with an explanatory statement which includes a justification for not deferring the repair project or lease for authorization in the following year.

Discussion

Section 805 authorizes the reprogramming of funds to meet emergency building condition or unexpected space needs of Federal agencies which arise and must be handled outside of the regular authorization process. There are two criteria which justify reprogramming funds to repair or alter or lease space. First, the need to be met through reprogramming must have arisen after the submission of GSA's annual program or else must have been unanticipated at the time of submission. Second, the urgency of the need must be sufficient to require an accelerated response instead of waiting for the next opportunity congruent with the annual cycle. The Administrator should address both of these criteria and provide a complete description of proposed action in the explanatory statement required by section 805.

In the event that the Administrator believes the project or lease is such a critical emergency that it should not be deferred for 30 days, he may proceed prior to the lapse of the 30-day waiting period. In such cases, his statement to the Committees should also include his justification for proceeding prior to the 30-day lapse in time.

SECTION 806—COST OVERRUNS

Summary

When the cost of a project exceeds the estimated maximum cost authorized, GSA may either (A) increase expenditures up to ten percent or (B) decrease the number of gross square feet to be constructed in the project by not to exceed ten percent.

If this authority is insufficient to meet the excess cost, GSA must report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House concerning the project, including recommendations as to appropriate action to enable continuance of the project. In such cases GSA may not take any action to continue the project unless such action has been authorized by the Congress in accordance with section 803.

Discussion

When the cost of a project exceeds the estimated maximum cost authorized under section 803 of this bill, the Administrator is authorized to increase expenditures up to ten percent of the amount authorized or to decrease the number of gross square feet to be constructed in the project by ten percent of the amount authorized. He may not do both nor may he mix the two alternatives by, for example, increasing expenditures by six percent and reducing the size of the building by four percent.

If the cost of an authorized project exceeds ten percent of the amount authorized by seciton 803, additional authorization would be necessary before the project could proceed. In this event, GSA would report to the Committees with recommendations regarding appropriate action to enable the continuance of the project. If the Administrator believes the project should not continue but should be deauthorized or deferred, then this judgment would also be reflected in his report to the Committees.

TITLE IX—PUBLIC BUILDING FINANCING

SECTION 901—REPEAL OF FEDERAL BUILDINGS FUND

Summary

Section 901(a) repeals subsections (f), (j), and (k) of the Federal Property and Administrative Services Act of 1949 which establish the Federal Buildings Fund, authorize the Administrator to collect standard level user charges from anyone furnished space and services, and authorize other executive agencies to collect similar charges at rates determined by the Administrator.

Section 901(b) provides for the disposition of revenues remaining in the Fund immediately prior to the date of its termination; obligated funds and appropriated funds remain available for their designated purposes, but unappropriated balances revert to the Treasury.

Discussion

Unlike many other programs, which are financed through direct appropriations, the activities of the Federal buildings program are funded through rent-like fees paid by the various government agencies that occupy GSA controlled buildings. Referred to as Standard Level User Charges (SLUC) these annual collections are deposited into the Federal Buildings Fund (FBF) an intragovernmental account from which funds are committed to program activities such as construction, repair and alteration, leasing, cleaning, utilities, protection, and other expenses associated with the operation and maintenance of Federal buildings.

This financing scheme was established in 1972, pursuant to the Public Buildings Act of 1972 (Public Law 92-313). Since its inception, the Federal Buildings Fund and the so-called SLUC charges have been controversial and problematic.

Many of those who are familiar with this budget accounting mechanism and who have recently studied it carefully believe it is time to reconsider the premise upon which it was built and, in fact, its very fundamentals. The Senate Committee on Appropriations—in its Report on The Treasury, Postal Service, and General Government Appropriations Bill for 1984 (Report No. 98-186)—states:

> The Committee urges the appropriate legislative committees carefully review the Federal building fund and effecuate changes to provide a more cost-effective and efficient way to provide for and control Federal space requirements.

The House Committee on Appropriations—in its Report on the corresponding Appropriations Bill (Report No. 93-417) states:

> The [SLUC] system is bad and a change in Public Law 92-313 is needed so as to return to the Congress financial control of the agency with annual review.

The March 1982 Report of the Surveys and Investigations Staff of the House Committee on Appropriations makes similar observations and recommends the termination of the SLUC program.

Comparable criticisms of the Fund and its associated SLUC charges had been advanced as far back as the September 18, 1978, hearing before this Committee by A. R. Marschall, then Commissioner of the Public Buildings Service. Although not in possession of the evidence reported in later studies, Admiral Marschall expressed his concerns in responding to a question on the Fund. He said:

> I think it is a gimmick, Mr. Chairman. But again I have grown up in a different system, and I think there has to be a certain weaning away from what I have known in the past to what I must expect in the future. But I saw nothing wrong with the system we used in the past in which the General Services Administration received the appropriations from the Congress and provided the space. This study which is being conducted at the present time is one which, among other things, will determine what the administrative costs of this program are and how, in fact, we may end up going back to a different system, with your concurrence and, of course, your legislative authority. But I am not convinced it is the world's greatest system. Some of those reasons that were given I think were valid at a time. I think that we now have a different approach to what constitutes the cost of an organization within the Government for doing business, and I think that this whole system probably was a great educational effort. But I think it has been at a cost. I have nothing to back this up yet, I hasten to add.

In short, the current system has failed to achieve its initial objectives—namely, to encourage more prudent use of space by Federal agencies and to provide adequate revenues for contruction, repair, and all other facets of the public buildings program.

No improvement in space utilization.—User-charge financing was originally adopted in 1972 as a means of accounting for facility costs in agency operating expenses and to encourage economies in the amount of space used.

In December, 1981, the General Accounting Office stated in its report entitled "GSA's Federal Buildings Fund Fails to Meet Primary Objectives," that user-charges have not made tenant Federal agencies more conscious of the space they use. The House Committee on Appropriations states in its report on the 1984 Treasury Appropriations Bill:

> The Committee has been able to detect very few instances in which agencies have cut back on space requirements because of cost. In most cases it appears the agencies do little more than include the GSA increases in their budgets, and then complain about the high cost of GSA-administered space. It seems to the Committee that there are more direct and more effective ways to manage space other than through the budget process.

Available data confirms the accuracy of these analyses regarding the inability of the Fund and the SLUC system to deliver desired results. GSA's reported space uitlization rates for the eleven fiscal years from 1970 to 1980 have fluctuated around their average value of 172 square feet per employee. There is little evidence to suggest that SLUC payments have had much impact in reducing demands for space or in providing adequate incentive to economize in their use of space.

The need for language mandating the cooperation of the heads of Executive agencies on this issue in Executive Order No. 12072 (August 16, 1978) suggests that economic pressures imposed by the SLUC system on agency budgets are insufficient to reduce demands for office space. More recently, GSA has issued Federal Property Management Regulations establishing space utilization targets—ultimately 135 square feet per employee. GSA is vigorously promoting more efficient space utilization, and this effort is to be applauded. As noted by the House Appropriations Committee in the statement above, this more direct approach should be the more effective way to manage space allocations.

No relationship to real costs.—One reason that SLUC payments have been ineffective in controlling agency demands for space is that the agencies seldom believe they must justify the charges. The charges are viewed as being set by GSA, and the agencies must "simply live with them."

The agencies also often view the charges as unreasonable or unfair. This problem may arise because there is no direct relationship between the cost of space to the government and the rate charged to the occupying agency. As noted in House Report No. 98-417, one example includes an extreme case in which the tenant agency is charged 3.5 times the amount that GSA actually pays the real landlord, and GSA proposes to increase the charge by 46.8 percent this year.

Cost of administration.—Another problem with the current SLUC system of user charges is the high cost of administration, particularly in the light of the paucity of real accomplishments attributable to this system. Periodic appraisals of every building in GSA's inventory (to establish and update charges) are very expensive, not to mention the bookkeeping and cost accounting required on the part of GSA and also every other agency in space under GSA's jurisdiction. The House Appropriations Committee notes that this is a ". . . very expensive method of essentially taking money out of one government pocket (the tenant agencies) and putting it in another pocket (the Federal Buildings Fund) . . ."

Outside congressional budget process.—At no time in the congressional budget process each year is the multibillion Federal buildings program examined as a whole. Budget authority for the program resides not in the commitments made for public buildings from the Fund but in the numerous agencies from which the revenues are collected. Budget authority is thus spread across every function of the budget and dispersed among all the separate appropriations acts. The SLUC payments are minor items included in the Administrative budgets of each agency and attract little executive or congressional scrutiny, though they add up to $2 billion.

When the Committee makes its statutorily mandated report to the Budget Committee by March 15 of each year, no budget authority is included for the Public Buildings Service of GSA even though the PBS obligates about $2 billion a year on the Federal buildings program. The sharp contrast between this level of activity of the PBS and the lack of new budget authority dramatizes the point the Committee has been making about the public buildings program for years: it is a huge expenditure over which there is little oversight in the congressional budget process. The absence of budget authority prevents comparing requirements for public buildings against other Federal responsibilities under the jurisdiction of the Committee. Nor can the budget committees or the full Congress take account of the impact of the buildings program (or modifications under alternative planning assumptions) when the annual budget resolution is debated and adopted. This masking helps to insulate space acquisition decisions from the rigorous weighing of costs against competing demands on the budget that most other federal programs (which are financed through direct congressional appropriations that are recorded as budget authority) must endure. The SLUC system of accounting masks outlays (or actual expenditures) as well as budget authority. Program outlays are calculated as the difference between payments to and from the Fund. This netting of outlays results in amounts small enough to escape the congressional scrutiny that full program spending levels would warrant. It also hides the full cash demand of the federal buildings program on the U.S. Treasury. In the 1984 Budget, for example, Federal Buildings Fund cash disbursements from the Treasury for Federal building activities were reported as minus $137 million, meaning only that revenue from SLUC and other sources exceeded gross disbursements by this amount. But gross disbursements from the Treasury for Federal buildings activities will approach $2 billion. If gross, rather than net, amounts had been recorded for the Fund, 1982 outlays for the general government function of the budget would have been more than 40 percent higher, according to an estimate of the Congressional Budget Office.

This section would abolish the user-charge mechanism of funding and revert to the use of direct appropriations, similar to the situation that antedated the current accounting system and similar to most other Federal programs. This is the most direct way to bring the program under executive review and the congressional budget process.

Pro-leasing bias.—The Federal Buildings Fund account biases decisions toward leasing, which reinforces other pro-leasing biases such as those generated by the pressure to limit government expenditures in the short run and by deficiencies in long-run planning by GSA for future Federal space needs. Program levels are limited by SLUC collections. Over the years, these collections have not been sufficient to cover the higher level of short term commitments for Federal construction that would have been required to achieve a more restrained leasing program. Even when it is shown that long-run economies can be achieved by construction and ownership, short-term considerations of fund resource levels are overriding. In fact, one of the failed purposes of the Fund was to ensure a sufficient flow of resources into the public buildings program, in excess of the requirements for current operations, so that the capital needs of the program would be adequately funded.

This failure to accumulate reserves above what is needed to cover GSA's fixed costs (lease obligations, utility costs, purchase contract payments, administrative overhead, etc.) rests in part with management failures over the years and in part with executive and legislative reductions.

In fiscal year 1975, OMB reduced GSA's proposed rental rates by 13 percent, and the Appropriations Committees imposed an additional 10 percent cut in that year. The Committees again legislated a 10 percent reduction for fiscal year 1976, and GSA preemptively cut user charges by 10 percent for fiscal year 1977 given likely congressional action to do the same.

In its fiscal year 1983 budget request, GSA based its program on a significant increase in SLUC billed to the agencies. This increase was to compensate for the impact of inflation on GSA's leasing costs and the lag in the appraisal process which sets user charges at levels equivalent to comparable commercial rents. Rate adjustments to the agencies were to be promulgated annually instead of every three years. After hearing strong protests from GSA's client agencies, the response of congressional appropriations committees was to freeze agency SLUC payments at fiscal year 1982 levels. GSA estimates that this action produced a loss of $337 million in revenues to the Federal Building Fund. To offset this loss, GSA has proposed a 23 percent increase in agency SLUC payments for fiscal year 1984. Currently pending appropriations bills propose to cut this increase to 14 percent.

TITLE X—MISCELLANEOUS

SECTION 1001—EFFECTIVE DATE

This Act becomes effective on January 1, 1984, except for a specified part of section 802(b) which becomes effective at the beginning of fiscal year 1985, and section 901 which becomes effective at the beginning of the fiscal year subsequent to the date of enactment of this Act.

ROLLCALL VOTES DURING COMMITTEE CONSIDERATION

Section 7(b) of rule XXVI of the Standing Rules of the Senate and the rules of the Committee on Environment and Public Works require that any rollcall votes taken during consideration of this bill be announced in this report.

During the Committee's consideration of S. 452 one rollcall vote was taken. The Committee voted to report S. 452 by a vote of 16-0. Voting in the affirmative to report the bill from the full Committee were Senators Stafford, Baker, Chafee, Simpson, Abdnor, Symms, Domenici, Durenberger, Humphrey, Randolph, Bentsen, Burdick, Hart, Moynihan, Mitchell, and Baucus.

COST OF LEGISLATION

Section 403 of the Congressional Budget and Impoundment Control Act requires each bill to contain a statement of the cost of such bill prepared by the Congressional Budget Office. That report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., October 27, 1983.

Hon. ROBERT T. STAFFORD,
Chairman, Commmittee on Environment and Public Works, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 452, the Public Buildings Act of 1983, as ordered reported by the Senate Committee on Environment and Public Works, September 28, 1983.

The Public Buildings Act changes the source of financing for activities of the Public Buildings Service of the General Services Administration, (GSA). These activities are currently financed from rent-like payments (standard level user charges), which are paid by federal agencies occupying GSA-controlled buildings and deposited in the Federal Buildings Fund. This bill abolishes the Federal Buildings Fund and provides that funding for Federal Buildings Service activities shall be provided directly by appropriations to GSA. The Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation would be required to report annually a bill authorizing appropriations for the Public Buildings Service. S. 452, however, does not authorize any funding for the program.

The bill also requires the full funding of new multi-year leases, beginning in fiscal year 1985. The GSA presently records annual lease payments as obligations in the year they are due, while total commitments for a construction project are recorded in the year in which the contract is awarded. Full funding of new leases would require the full multi-year cost of a lease commitment to be shown as an obligation in the initial year. This would increase necessary appropriations in the short term, but would have no impact on outlays. The estimated additional appropriations necessary to implement this change are shown in the table below. These estimates assume no change in the number of personnel requiring office space or in the amount of space assigned to each worker.

ESTIMATED BUDGET IMPACT OF FULL FUNDING OF MULTIYEAR LEASES

[By fiscal years, in billions of dollars]

	1984	1985	1986	1987	1988
Estimated authorization level		0.7	0.6	0.5	0.4
Estimated outlays					

The bill also states that the Congress believes long-term efficiencies would be realized by providing offices in public buildings to at least 75 percent of the federal employees whose offices are covered by this act. In order to meet this target, GSA is encouraged to reduce the average space per employee, as well as acquire or construct additional public buildings. This provison does not require specific changes to current policy and has no direct budget impact.

Section 107 of the Public Buildings Act requires GSA to submit an annual report to the Congress on activities undertaken to meet the public buildings needs of federal agencies in the preceding year, including an inventory of public buildings, an inventory of federal agencies in leased buildings, a list of all construction projects completed or in progress, and a list of all leases and lease renewals executed. Although GSA currently maintains records with this type of information, additional effort would be required to organize the data and to produce such a report. The additional costs related to this report are estimated to be no more than $500,000 per year.

Section 307 of the bill amends the Architectural Barriers Act of 1968 to require federal and federally-financed buildings to be "fully accessible" to physically handicapped persons, replacing the existing standard which requires "ready access" to such buildings. "Full accessibility" is a stricter criterion than "ready access", but it is not clear precisely what types of changes would be necessitated by the new standard. Until such time as "full accessibility" is defined, through the establishment of regulations and possibly through the judicial process, it is impossible to provide a meaningful estimate of costs associated with this requirement. However, the potential costs are substantial, particularly if a very strict interpretation is applied, requiring that handicapped individuals have complete access to every entrance and every area within each building. Using such a definition, the GSA has estimated that its costs to implement the changes could exceed $1 billion in the first year. In addition, based on information from the United States Postal Service, it is estimated that its cost of implementing this provision could range from approximately $250 million to $1 billion per year for several years. Other federal agencies could also be significantly affected. Thus, while no comprehensive, government-wide figures are available, the cost to the federal government of implementing Section 307 could be billions of dollars.

The impact of this provision on the budgets of state and local governments is also unclear. The provision applies to buildings owned or leased by state and local governments for which federal funds have been used in the design, construction, or alteration. If "fully accessible" is defined in a manner that would require state and local governments to substantially alter existing public buildings, then significant additional costs will probably be incurred. These costs cannot be estimated at this time.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

RUDOLPH G. PENNER,
Director.

COMMITTEE COMMENTS ON CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

The Committee disagrees with the Congressional Budget Office that the reporting requirements of section 107 could increase costs up to $500,000 a year due to "additional effort * * * required to organize the data and to produce such a report."

To the contrary, as explained in the section-by-section analysis of this report, it is not the intent of section 107 to require GSA to prepare an expensive report. GSA currently maintains records with the type of information requested, and as the section-by-section analysis states: "* * * The Committee encourages GSA to submit the information in computer printouts or other convenient formats." Furthermore, in the interest of keeping to a minimum the amount of time and expense of reporting, some information is required to be only maintained at GSA (not a part of the annual reporting requirement).

EVALUATION OF REGULATORY IMPACT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the committee has evaluated the regulatory impact of the bill. In view of the fact that the bill primarily affects the internal operations of the Government and reorganizes an existing function, most of its provisions create no new regulatory implications.

Section 108 requires that certain contractors or lessors to the Government sign a statement to the effect that their contractual relationship with the Government was not secured through illegal means and will not constitute a conflict of interest. This statement will require a negligible amount of time to read and sign and will not require the maintenance of any records or the expenditure of funds by persons outside the Government.

HEARINGS

The full Committee on Environment and Public Works held hearings on S. 452 on Tuesday, June 7, 1983. In addition, numerous hearings were held on the bills S. 2080 and S. 533, which preceded S. 452 in the 96th and 97th Congresses, respectively. See the section of this report entitled "Legislative History" for further elaboration of hearings and other Congressional actions associated with this legislation.

LEGISLATIVE HISTORY

Both oversight hearings and hearings on specific building projects conducted by the committee over the past several years have contributed to the development of this legislation.

S. 452 and the similar bills—S. 533 and S. 2080—of the preceding two Congresses are the product of intensive study, hearings, and oversight by the Environment and Public Works Committee extending over more than 6 years.

Following is a legislative history of the work of the Committee on Environment and Public Works in development of public buildings legislation and the deliberations of the whole Congress.

98TH CONGRESS

S. 452

February 3, 1983

Mr. Stafford introduced S. 452, a bill to establish public buildings policies for the Federal Government, to establish the Public Buildings Service in the General Services Administration, and for other purposes.

Cosponsors.—Mr. Moynihan; Mr. Simpson; and Mr. Randolph.

Short titles.—Public Buildings Act of 1983. Public Buildings Cooperative Use Act Amendments of 1983. Federal Building Enhancement Act of 1983.

Congressional Record.—Referred to Committee on Environment and Public Works. Statements: Stafford, p. S1057; Moynihan, p. S1066.

September 28, 1983

Full Committee ordered reported with a Committee amendment and an amendment offered by Mr. Simpson.

S. 1287

May 16, 1983

Mr. Stafford, for the Committee on Environment and Public Works, reported S. 1287, an original bill to authorize appropriations for the Public Buildings Service of the General Services Administration for fiscal year 1984. S. Report 98–114.

Short title.—Public Buildings Authorization Act of 1983.

June 23, 1983

Mr. Stafford submitted an amendment to S. 1287 regarding certain building repairs and renovations and the transfer of the ITC Building to the Smithsonian Institution.

Cosponsors.—Mr. Randolph and Mr. Moynihan

Congressional Record.—Text of amendment, p. S9018.

June 28, 1983

Congressional Record.—Mr. Stafford discusses amendment to S. 1287; description of individual major projects, p. S9348.

June 29, 1983

Senate passed S. 1287 by voice vote

Amendments adopted.—Mr. Baker for Mr. Stafford regarding authorizations of certain projects; Mr. Baker for Mr. Danforth regarding relocation of ITC to suitable building; Mr. Metzenbaum to designate John Weld Peck Federal Building, Cincinnati, Ohio.

Congressional Record.—text of amendments, p. S9537; text of bill as amended and statements by Mr. Stafford and Mr. Danforth, p. S9584.

July 11, 1983

Referred to House Committee on Public Works and Transportation.

July 25, 1983

Referred to House Subcommittee on Public Buildings and Grounds.

97TH CONGRESS

S. 533

February 24, 1981

Mr. Stafford introduced S. 533, a bill to establish public buildings policies for the Federal Government, to establish the Public Buildings Service in the General Service Administration, and for other purposes.

Cosponsors.—Mr. Moynihan; Mr. Chafee; Mr. Randolph; Mr. Simpson; Mr. Baker; Mr. Baucus; Mr. Burdick; Mr. Dole; Mr. Gorton; Mr. Huddleston; Mr. Inouye; and Mr. Matsunaga.

Short titles.—Public Buildings Act of 1980. Public Buildings Cooperative Use Act of 1981, and Federal Buildings Enhancement Act of 1981.

Congressional Record.—Referred to Committee on Environment and Public Works. Statements: Stafford, p. S1484; Moynihan, p. S1497; Randolph, p. S1496.

March 10, 1981

Mr. Mitchell added as cosponsor. Congressional Record, p. S2041.

March 19, 1981

Mr. Stafford submitted amendment to S. 533 regarding section 307 dealing with accessibility to handicapped. Congressional Record, p. S2410.

March 25, 1981

Mr. Proxmire added as cosponsor. Congressional Record, p. S2671.

April 2, 1981

Committee on Environment and Public Works unanimously ordered S. 533 to be reported favorably with amendments, including fiscal year authorization for the Public Buildings Service. Congressional Record, p. S4187.

April 30, 1981

Mr. Stafford with Mr. Moynihan and Mr. Randolph submitted an amendment to S. 533. Congressional Record, p. S4268.

April 30, 1981

Mr. Stafford reported S. 533. S. Report 97-48. Congressional Record, p. S4187.

May 6, 1981

Mr. Durenberger added as cosponsor. Congressional Record, p. S4447.

May 6, 1981

Senate passed S. 533 by a vote of 93-0 (Roll Call No. 90).

Amendments adopted.—Committee, p. S4466; Stafford, to clarify cost-savings provisions and for other purposes, p. S4478; Stafford, requiring that full funding of leases begin in fiscal year 1983 rather than fiscal year 1982 and making technical changes, p. S4480; Moynihan, authorizing GSA to study improving public buildings program, p. S4481; Stafford, technical, p. S4481.

May 12, 1981

Referred to House Committee on Public Works and Transportation.

May 15, 1981

Favorable Executive comment received by House from Office of Management and Budget.

May 26, 1981

Referred to House Subcommittee on Public Buildings and Grounds.

June 4, 1981

Executive comment requested by House from Architectural and Transportation Barriers Compliance Board and the National Endowment for the Arts.

August 13, 1981

Favorable Executive comment received from the National Endowment for the Arts.

August 20, 1981

Executive comment received from Department of Defense.

September 29, 1981

Subcommittee began hearings. Additional hearings on October 1, 6, 7, 14, 15, 27, 29, and November 12, 1981.

October 27, 1981

Executive comment received by House from National Aeronautics and Space Administration.

S. 2451

April 28, 1982

Mr. Stafford introduced S. 2451, a bill to authorize appropriations for the Public Buildings Service of the General Services Administration and for the purposes.

Cosponsor.—Mr. Moynihan.

Short title.—Public Buildings Authorization Act of 1982.

Congressional Record.—P. S4203; Statement, p. S4207; text, p. S4208. Referred to Committee on Environment and Public Works.

May 11, 1982

Committee unanimously ordered favorably reported with amendments.

May 28, 1982

Mr. Stafford reported S. 2451 to the Senate. S. Report 97-462. Congressional Record, p. S6446.

June 9, 1982

Senate passed S. 2451 by voice vote. Congressional Record, p. S6487.

June 14, 1982

Referred to House Committee on Public Works and Transportation.

June 28, 1982

Bill referred to Subcommittee on Public Buildings and Grounds.

96TH CONGRESS

S. 2080

December 5, 1979

Mr. Moynihan introduced S. 2080, a bill to establish public buildings policies for the Federal government, to establish the Public Buildings Services in the General Services Administration, and for other purposes.

Cosponsors.—Mr. Randolph; Mr. Stafford; Mr. Chafee; Mr. Baker; Mr. Bentsen; Mr. Burdick; Mr. Culver; Mr. Domenici; Mr. Gravel; Mr. Hart; Mr. Muskie; Mr. Simpson; and Mr. Pressler.

Short titles.—Public Buildings Act of 1979. Public Buildings Cooperative Use Act Amendments of 1979. Federal Buildings Enhancement Act of 1979.

Congressional Record.—Referred to Committee on Environment and Public Works, p. S17854. Moynihan statement and text, p. S17858. Supporting statements as follows: Randolph, S17866; Stafford, S17867; Chafee, S17868; Baker, S17869.

January 23, 1980

Mr. Durenberger, Mr. McGovern, and Mr. Baucus added as cosponsors. Congressional Record, p. S269.

Mr. Moynihan inserts article in Congressional Record regarding the bill, p. S295.

February 28, 1980

Mr. Morgan added as cosponsor. Congressional Record, p. S1988.

March 10, 1980

Committee began markup. Recessed.

March 19, 1980

Mr. Jackson added as cosponsor. Congressional Record, p. S2657.

March 24, 1980

Committee unanimously ordered reported to Senate favorably with an amendment.

May 15, 1980

Mr. Moynihan reported S. 2080. S. Report 96–771.

June 11, 1980

Mr. Mitchell added as cosponsor. Congressional Record, p. S6656.

June 13, 1980

Mr. Jepsen submitted amendment to require GSA to exempt at least 10 percent of projects form Davis-Bacon provisions pending a cost study. Congressional Record, p. S6997.

June 17, 1980

Mr. Mathias submitted an amendment, Congressional Record: p. S7249.

June 20, 1980

Senate passed S. 2080 with amendments by yea-nay vote of 71–8. (Record Vote No. 234). Congressional Record, p. 7596.

August 25, 1980

House passed H.R. 6075, to authorize GSA to issue obligations for construction and acquisition of public buildings. House subsequently passed S. 2080, amended to contain the language of H.R. 6075.

August 26, 1980

Message on House action received in Senate.

September 22, 1980

Senate disagreed to House amendments, requested a conference and appointed conferees on S. 2080: Randolph, Moynihan, Burdick,

G. Mitchell, Stafford, Chafee, and Simpson. Congressional Record, p. S13146.

September 23, 1980

House insisted on its amendments, agreed to the request for conferees and the Speaker appointed: H. Johnson, Levitas, McCormack, Flippo, Donnelly, Edgar, Harsha, Stangeland, and Livingston. Congressional Record, p. H9436.

November 17, 1980

Conferees met.

December 3, 1980

Conferees met.

December 4, 1980

Conferees met and adjourned without taking final action.

PUBLIC BUILDINGS LEGISLATION PRIOR TO S. 2080

96TH CONGRESS

S. 460, March 12, 1979; Mr. Stafford, Mr. Sasser, March 13, 1979; Mr. Cranston, May 22, 1979; Mr. Tsongas, June 24, 1979.

A bill to encourage bicycling and physical fitness by assuring greater safety for bicycles parked at Federal office buildings.

S. 461, February 22, 1979. Mr. Stafford.

A bill to require that competitions be conducted to enhance the Nation's architecture and determine the design of certain new Federal office buildings, cited as the "Architectural Excellence Act of 1979."

S. 494, February 26, 1979. Mr. Stafford, and Messrs. Randolph, Chafee, and Moynihan.

A bill to amend certain provisions of the Public Buildings Act of 1959, and for other purposes, cited as the "Public Buildings Amendments of 1979."

S. 1321, June 12, 1979. Mr. Simpson.

A bill to amend section 7(a) of the Public Buildings Act of 1975 to require certain information concerning each principal owner of any building or space to be leased by the Federal Government.

S. 1791, Mr. Chafee, and Messrs. Moynihan, Randolph, Stafford, Baker, Burdick, Pressler, Pell, and Gravel. Mr. Kennedy, September 25, 1979.

A bill to enhance the utility and ambience of Federal buildings by circulating exhibits of art and history among public buildings managed by the Administrator of General Services, to define and continue the existing arts-in-architecture program maintained by the Administrator, and for other purposes, cited as the "Federal Buildings Enhancement Act of 1979."

95TH CONGRESS

S. 2402, Mr. Stafford, Messrs. Randolph and Moynihan, February 22, 1978.

A bill to require that competitions be conducted to enhance the Nation's architecture and determine the design of certain new Federal office buildings, cited as the "Architectural Excellence Act of 1978."

S. 2739, Mr. Chafee, April 3, 1978, and Messrs. Moynihan, Stafford, Randolph, Anderson, Brooke, Burdick, Gravel, Haskell, McClure, Morgan, Pell and Wallop. Messrs. Church, Inouye and Danforth, Clark, Kennedy, and Mathias.

A bill to enhance the utility and ambience of Federal buildings by circulating throughout the United States exhibits of art and history among public buildings managed by the General Services Administration, cited as the "Federal Buildings Artistic Enhancement Act of 1978."

S. 3570, Mr. Stafford and Messrs. Randolph and Gravel, Mr. Moynihan, October 12, 1978.

A bill to amend the Public Buildings Act of 1959, as amended, to authorize the financing of the acquisition and construction of public buildings, and for other purposes.

S. 3571, Mr. Stafford and Mr. Randolph. Mr. Moynihan, October 12, 1978.

A bill to amend the Public Buildings Act of 1959, as amended, and for other purposes, (amending section 7 of the Public Buildings Act of 1959 in order to strengthen congressional control over GSA's activities in construction, alteration, and repair of Federal buildings and of alterations to privately owned buildings leased by the Government).

S. 3572, Mr Stafford and Mr. Randolph, Mr. Moynihan, October 12, 1978.

A bill to amend the Public Buildings Act of 1959, as amended, and for other purposes, (amending section 7 of the Public Buildings Act of 1959 in order to strengthen congressional controls over GSA's activities in construction, alteration, and repair of Federal buildings and of alterations to privately owned buildings leased by the Government).

S. 3573, Mr Stafford and Mr. Randolph, Mr. Moynihan, October 12, 1978.

A bill to amend the Public Buildings Act of 1959, as amended, and for other purposes, (amending section 7 of the Public Buildings Act of 1959 in order to strengthen congressional controls over GSA's activities in construction, alteration, and repair of Federal buildings and of alterations to privately owned buildings leased by the Government).

S. 3574, Mr. Stafford and Messrs. Randolph and Gravel. Mr. Moynihan, October 12, 1978.

A bill to amend the Public Buildings Act of 1959, as amended, and for other purposes, (amending section 7 of the Public Buildings Act of 1959 in order to strengthen congressional controls over GSA's activities in construction, alteration, and repair of Federal buildings and of alterations to privately owned buildings leased by the Government).

S. 3575, Mr Stafford and Mr. Moynihan, October 12, 1978.

A bill to amend the Public Buildings Act of 1959, as amended, and for other purposes (adding a new section to the Public Buildings Act in order to establish criteria by which the Administrator shall be guided for the construction, acquisition, assignment, reassignment, and utilization of office buildings and space under his jurisdiction).

S. 3576, Mr Stafford and Mr. Moynihan, October 12, 1978.

A bill to amend the Public Buildings Act of 1959, as amended, and for other purposes (repealing the authority contained in the Public Buildings Act of 1959 that enables the Administrator to name or to rename any building under his custody, regardless of whether it was previously named by statute).

S. 3577, Mr Stafford and Mr. Randolph, Mr. Moynihan, October 12, 1978.

A bill to amend the Public Buildings Act of 1959, as amended, and for other purposes (directing GSA to file two studies which are being undertaken annually by GSA, but which were not sent to the Congress).

S. 3621, Mr. Stafford, October 14, 1978.

A bill to assure greater safety for bicycles parked at Federal office buildings.

PRINTED HEARINGS OF THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

May 24, 1983; June 7, 1983

Hearings on S. 452 and other pending building proposals. S. Hrg. 98-223.

March 26, 1983

Hearings on authorizations for the Public Buildings Service of the General Services Administration. Serial No. 97-H45.

Feburary 27, 1981; March 9, 1981

Hearings on S. 533. Serial No. 96-H5.

May 2, 1980

Hearings on several public buildings proposals. Serial No. 96-H47.

February 28, 1980

Hearings on the report to the Committee of the Inspector General of GSA. Serial No. 96-H41.

January 29, 1980; February 1, 1980

Hearings on S. 2080. Serial No. 96-H38.

January 25, 1980

Hearings on leasing of unoccupied space. Serial No. 96-H37.

October 15, 1979

Hearing on S. 461, regarding architectural competitions. Serial No. 96-H28.

August 18, 1979

Hearings on Federal building financing and user charges. Serial No. 96-H26.

July 12, 1979

Hearings on Federal courtroom needs Serial No. 96-H23.

March 16, 1979; June 6, 1979; June 15, 1979

Oversight hearings on public buildings policies. Serial No. 96-H21.

REPORTS OF COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Reports to the Senate Committee on the Budget pursuant to section 301(c) of the Congressional Budget and Impoundment Control Act of 1974

Document No.:	*Date*
98-31	March 1983
97-10	March 1982
97-1	March 1981
96-10	March 1980
96-4 [1]	March 1979

[1] This report describes the moratorium, imposed by the committee on March 15, 1979, on approvals of all nonemergency prospectuses of the General Services Administration.

REPORT TO THE SENATE

Several Public Building Proposals Submitted by the General Services Administration. Committee Print. Serial No. 95-15. August 1978.

REPORT OF THE CONGRESSIONAL BUDGET OFFICE

The Federal Buildings Program: Authorization and Budgetary Alternatives. June 1983.

REPORT OF THE LIBRARY OF CONGRESS, CONGRESSIONAL RESEARCH SERVICE

Public Buildings Policy: Alternatives for Reform. Virginia A. McMurtry. Issue Brief Number IB81114 (updated edition), March 31, 1982.

REPORTS OF THE U.S. GENERAL ACCOUNTING OFFICE

Problems with GSA's Management of Lease Renewal Options. PLRD-83-76, June 2, 1983.

Selected GSA Real Property Operations Contain Internal Control Weaknesses. AFMD-83-35, January 14, 1983.

Consolidation of United States Information Agency Activities in Washington, D.C. PLRD-83-13, January 13, 1983.

Improvements Needed in GSA's Role in the Real Property Utilization Survey Program. PLRD-82-83, July 20, 1982.

Better Information Management Could Alleviate Oversight Problems with GSA's Construction Program. PLRD-82-87, July 9, 1982.

More Effective Leasing Procedures and Practices Could Help GSA Reduce Delays in Meeting Federal Space Needs. PLRD-82-46, May 10, 1982.

Foundation Problems Encountered During Construction of the Federal Office Building and Courthouse in Springfield, Massachusetts. PLRD-82-39, February 22, 1982.

GSA's Federal Building Fund Fails to Meet Primary Objectives. PLRD-82-18, December 11, 1981.

GSA's Cleaning Costs Are Needlessly Higher Than in the Private Sector. AFMD-81-78, August 24, 1981.

Federal Facilities Acquisition and Management: Issues for Planning. Staff Study, PLRD-81-51, July 14, 1981.

GSA's Management of Reimbursable Building Services Needs Improvement. PLRD-81-46, July 8, 1981.

Proposed Relocation of the NRC Region IV Office from Arlington, Texas, to Fort Worth, Texas. PLRD-81-13, April 1, 1981.

Relocation of Social Security Administration District Office at Galesburg, Illinois. PLRD-81-10, March 11, 1981.

GSA Can Do More to Ensure Leased Federal Office Space Meets Its Firesafety Criteria. PLRD-81-8, May 1, 1981.

Foresighted Planning and Budgeting Needed for Public Buildings Program. PAD-80-95, September 9, 1980.

General Services Administration's Lease Versus Construction Present-Value Cost Analyses Submitted to the Congress Were Inaccurate. LCD-80-61, June 20, 1980.

Information on Housing of the SEC at Multiple Locations in the Washington, D.C. Area. FGMSD-80-59, May 20, 1980.

GSA Lease Prospectuses Provide a Reasonable Basis for the Congress to Approve Proposed Space Acquisitions. LCD-80-44, April 17, 1980.

GSA Found Lax in Enforcing Lease on Westwood Complex. LCD-80-42, April 7, 1980.

The General Services Administration Needs to Improve Its Cleaning and Guard Contracting Activities. LCD-80-21, March 21, 1980.

Costs and Budgetary Impact of the General Services Administration's Purchase Contract Program. LCD-80-7, October 17, 1979.

GSA's Space Management Propasals for the National Capital Region and for the Nation's Cities. LCD-79-315, July 30, 1979.

The General Services Administration Should Improve the Management of its Alterations and Major Repairs Program. LCD-79-310, July 17, 1979.

General Services Administration's Debt Management Problems with Its Participation Certificates. LCD-79-320, July 11, 1979.

Proposed Project to Renovate Nashville's Historic Train Station Building Needs to be Reevaluated. LCD-79-308, April 27, 1979.

The General Services Administration Has Been Lax in Managing the Columbia Plaza Building Lease. LCD-79-307, April 17, 1979.

Repairs and Alterations of Public Buildings by General Services Administration—Better Congressional Oversight and Control Is Possible. LCD-78-335, March 21, 1979.

Observations on Prospectus for the Renovation of U.S. Customhouse, New York City. LCD-79-305, March 6, 1979.

Review of the Public Buildings Cooperative Use Act of 1976 and Its Implementation. LCD-79-302, January 25, 1979.

Use of Escalation Clauses for Operating Costs of *All* GSA Leases. LCD-78-340, November 13, 1978.

General Services Administration Should Do More to Avoid Foundation Construction Problems. LCD-78-334, September 19, 1978.

General Services Administration's Practices for Altering Leased Buildings Should be Improved. LCD-78-338, September 14, 1978.

General Services Administration's Rental Rates (Standard Level User Charges) for Federal Agencies. Staff Study. LCD-329, May 25, 1978

Index of Construction Functions Performed by Federal Agencies. Staff Study. LCD-7-322, May 9, 1978.

Information Relative to the Design and Construction of the New Federal Building in Williamsport, Pennsylvania. LCD-78-308, March 13, 1978.

General Services Administration's Practices in Awarding and Administering Lease Could Be Improved. LCD-77-354, January 24, 1978.

More Flexibility Needed by the General Services Administration for Delegating Leasing Authority to Federal Agencies. LCD-78-303, January 9, 1978.

Use of New Construction Method on Federal Projects of Three Agencies Can Be Improved. LCD-77-348, October 26, 1977.

General Services Administration's Use of New Construction Concept for Federal Buildings Not Yet Successful. LCD-77-322, October 6, 1977.

Executive Agencies Can Do Much More In Using Government-Owned Space as an Alternative to Leasing or New Construction. LCD-777-314, September 27, 1977.

CHANGES IN EXISTING LAW

In compliance with section 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows: Existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman:

[PUBLIC BUILDINGS ACT OF 1959

[* * * this Act may be cited as the "Public Buildings Act of 1959".

[SEC. 2. No public building shall be constructed except by the Administrator, who shall construct such public building in accordance with this Act.

[SEC. 3. The Administrator is authorized to acquire, by purchase, condemnation, donation, exchange, or otherwise, any building and its site which he determines to be necessary to carry out his duties under this Act.

[SEC. 4. (a) The Administrator is authorized to alter any public building, and to acquire in accordance with section 5 of this Act such land as may be necessary to carry out such alteration.

[(b) No approval under section 7 shall be required for any alteration and acquisition authorized by this section the estimated maximum cost of which does not exceed $500,000.

[SEC. 5. (a) The Administrator is authorized to acquire, by purchase. condemnation, donation, exchange, or otherwise, such lands or interests in lands as he deems necessary for use as sites, or additions to sites, for public buildings authorized to be constructed or altered under this Act.

[(b) Whenever a public building is to be used in whole or in part for post office purposes, the Administrator shall act jointly with the Postmaster General in selecting the town or city wherein such building is to be constructed, and in selecting the site in such town or city for such building.

[(c) Whenever the Administrator is to acquire a site under this section, he may, if he deems it necessary, solicit by public advertisement, proposals for the sale, donation, or exchange of real property to the United States to be used as such site. In selecting a site under this section the Administrator (with the concurrence of the Postmaster General if the public building to be constructed thereon is to be used in whole or in part for post office purposes) is authorized to select such site as in estimation is the most advantageous to the United States, all factors considered, and to acquire such site without regard to title III of the Federal Property and Administrative Services Act of 1949, as amended.

[Sec. 6. (a) Whenever the Administrator deems it to be in the best interest of the United States to construct a new public building to take the place of an existing public building, he is authorized to demolish the existing building and to use the site on which it is located for the site for the proposed public building, or, if in his judgment it is more advantageous to construct such public building on a different site in the same city, he is authorized to exchange such building and site, or such site, for another site, or to sell such building and site in accordance with the provisions of the Federal Property and Administrative Services Act of 1949, as amended.

[(b) Whenever the Administrator determines that a site acquired for the construction of a public building is not suitable for that purpose, he is authorized to exchange such site for another, or to sell it in accordance with the provisions of the Federal Property and Administrative Services Act of 1949, as amended.

[(c) Nothing in this section shall be deemed to permit the Administrator to use any land as a site for a public building if such project has not been approved in accordance with section 7.

[Sec. 7. (a) In order to insure the equitable distribution of public buildings throughout the United States with due regard for the comparative urgency of need for such buildings, except as provided in section 4, no appropriation shall be made to construct, alter, purchase, or to acquire any building to be used as a public building which involves a total expenditure in excess of $500,000 if such construction, alteration, purchase, or acquisition has not been approved by resolutions adopted by the Committee on Public Works of the Senate and House of Representatives, respectively. No appropriation shall be made to lease any space at an average annual rental in excess of $500,000 for use for public purposes if such lease has not been approved by resolutions adopted by the Committee on Public Works of the Senate and House of Representatives, respectively. For the purpose of securing consideration for such approval, the Administrator shall transmit to the Congress a prospectus of the proposed facility, including (but not limited to)—

[(1) a brief description of the building to be constructed, altered, purchased, acquired, or the space to be leased under this Act;

[(2) the location of the building or space to be leased and an estimate of the maximum cost to the United States of the facility to be constructed, altered, purchased, acquired, or the space to be leased;

[(3) a comprehensive plan for providing space for all Government officers and employees in the locality of the proposed facility or the space to be leased, having due regard for suitable space which may continue to be available in existing Government-owned or occupied buildings, especially such of those buildings as enhance the architectural, historical, social, cultural, and economic environment of the locality;

[(4) with respect to any project for the construction, alteration, purchase, or acquisition of any building, a statement by the Administrator that suitable space owned by the Government is not available and that suitable rental space is not available at a price commensurate with that to be afforded through the proposed action;

[(5) a statement by the Administrator of the economic and other justifications for not acquiring or purchasing a building or buildings identified to the Administrator pursuant to section 12(c) of this Act as suitable for the public building needs of the Federal Government; and

[(6) a statement of rents and other housing costs currently being paid by the Government for Federal agencies to be housed in the building to be constructed, altered, purchased, acquired, or the space to be leased.

[(b) The estimated maximum cost of any project approved under this section as set forth in any prospectus may be increased by an amount equal to the percentage increase, if any, as determined by the Administrator, in construction or alteration costs, as the case may be, from the date of transmittal of such prospectus to Congress, but in no event shall the increase authorized by this subsection exceed 10 per centum of such estimated maximum cost.

[(c) In the case of any project approved for construction, alteration, or acquisition by the Committees on Public Works of the Senate and of the House of Representatives, respectively, in accordance with subsection (a) of this section, for which an appropriation has not been made within one year after the date of such approval, either the Committee on Public Works of the Senate or the Committee on Public Works of the House of Representatives, may rescind, by resolution, its approval of such project at any time thereafter before such an appropriation has been made.

[(d) Nothing in this section shall be construed to prevent the Administrator from entering into emergency leases during any period declared by the President to require such emergency leasing authority, except that no such emergency lease shall be for a period of more than 180 days without approval of a prospectus for such lease in accordance with subsection (a) of this section.

[SEC. 8. (a) The purposes of this Act shall be carried out in the District of Columbia as nearly as may be practicable in harmony with the plan of Peter Charles L'Enfant and such public buildings shall be so constructed or altered as to combine architectural beauty with practical utility.

[(b) Whenever in constructing or altering a public building under this Act in the District of Columbia the Administrator determines that such construction or alteration requires the utilization of contiguous squares as a site for such building, such portions of streets as lie between such squares and such alleys as intersect such squares are authorized to be closed and vacated if such closing and vacating is mutually agreed to by the Administrator, the Board of Commissioners of the District of Columbia, and the National Capital Planning Commission. The portions of such street and alleys so closed and vacated shall thereupon become part of such site.

[(c) With respect to any lands located south of Independence Avenue, between Third Street SW., and Eleventh Street SE., in the District of Columbia, no such lands shall be acquired by the Administrator for use as sites, or additions to sites, without prior consultation with the House Office Building Commission created by the Act of March 4, 1907 (34 Stat. 1365).

[With respect to any lands located in the area extending from the United States Capitol Grounds to Eleventh Street NE. and SE. and bounded by Independence Avenue on the south and G Street NE. on the north, in the District of Columbia, no such lands shall be acquired by the Administrator for use as sites, or additions to sites, without prior consultation with the Architect of the Capitol.

[(d) [omitted] (Subsection (d) authorized the District of Columbia Armory Board to contract for increase in seating capacity of Robert F. Kennedy Stadium.)

[SEC. 9. The Administrator is authorized to carry out any construction or alteration authorized by this Act by contract, if he deems it to be most advantageous to the United States.

[SEC. 10. (a) The Administrator, whenever he determines it to be necessary, is authorized to employ, by contract or otherwise, and without regard to the Classification Act of 1949, as amended, or to the civil service laws, rules, and regulations, or to section 3709 of the Revised Statutes, the services of established architectural or engineering corporations, firms, or individuals, to the extent he may require such services for any public building authorized to be constructed or altered under this Act.

[(b) No corporation, firm, or individual shall be employed under authority of subsection (a) on a permanent basis.

[(c) Notwithstanding any other provision of this section the Administrator shall be responsible for all construction authorized by this Act, including the interpretation of construction contracts, the approval of materials and workmanship supplied pursuant to a construction contract, approval of changes in the construction contract, certification of vouchers for payments due the contractor, and final settlement of the contract.

[SEC. 11. (a) The Administrator shall submit to Congress each January, promptly after the convening of Congress, a report showing the location, space, cost, and status, of each public building the construction, alteration, or acquisition of which is to be under authority of this Act and which was uncompleted as of the date of the last preceding report made under this Act.

[(b) The Administrator and the Postmaster General are hereby authorized and directed to make such building project surveys as may be requested by resolution by either the Committee on Public Works of the Senate or the Committee on Public Works of the House of Representatives, and within a reasonable time shall make a report thereon to the Congress. Such report shall contain all other information required to be included in a prospectus of the proposed public building project under section 7(a) of this Act.

[SEC. 12. (a) The Administrator is authorized and directed to make a continuing investigation and survey of the public buildings needs of the Federal Government in order that he may carry out his duties under this Act, and, to submit to Congress prospectuses of proposed projects in accordance with section (7) of this Act.

[(b) In carrying out his duties under this Act the Administrator shall cooperate with all Federal agencies in order to keep informed of their needs, shall advise each such agency of his program with respect to such agency, and may request the cooperation and assistance of each Federal agency in carrying out his duties under this Act. Each Federal agency shall cooperate with, advise, and assist the Administrator in carrying out his duties under this Act as determined necessary by the Administrator to carry out the purposes of this Act.

[(c) Whenever the Administrator undertakes a survey of the public buildings needs of the Federal Government within a geographical area, he shall request that, within sixty days, the Advisory Council on Historic Preservation established by title II of the Act of October 15, 1966 (16 U.S.C. 470i), identify any existing buildings within such geographical area that (1) are of historic, architectural, or cultural significance (as defined in section 105 of the Public Buildings Cooperative Use Act of 1976) and (2) would be suitable, whether or not in need of repair, alteration, or addition, for acquisition or purchase to meet the public buildings needs of the Federal Government.

[(d) The Administrator in carrying out his duties under this Act shall provide for the construction and acquisition of public buildings equitably throughout the United States with due regard to the comparative urgency of the need for each particular building. In developing plans for such new buildings, the Administrator shall give due consideration to excellence of architecture and design.

[SEC. 13. As used in this Act—

[(1) The term "public building" means any building, whether for single or multitenant occupancy, its grounds approaches, and appurtenances, which is generally suitable for office or storage space or both for the use of one or more Federal agencies or mixed ownership corporations, and shall include: (1) Federal office buildings, (ii) post office, (iii) customhouses, (iv) courthouses, (v) appraisers stores, (vi) border inspection facilities, (vii) warehouses, (viii) record centers, (ix) relocation facilities, and (x) similar Federal facilities, and (xi) any other buildings or construction projects the inclusion of which the President may deem from time to time hereafter, to be justified in the public interest; but shall not include any such buildings and construction projects: (A) on the public domain (including that reserved for national forests and other purposes), (B) on properties of the United States in foreign countries, (C) on Indian and native Eskimo properties held in trust by the United States, (D) on lands used in connection with Federal programs for agricultural, recreational, and conservation purposes, including research in connection therewith, (E) on or used in connection with river, harbor, flood control, reclamation or power projects, or for chemical manufacturing or developing projects, or for nuclear production, research, or development projects, (F) on or used in connection with housing and residential projects, (G) on military installations (including any fort, camp, post, naval training station, airfield, proving ground, military supply depot, military school, or any similar facility of the Department of Defense), (H) on Veterans' Administration installations used for hospital or domiciliary purposes, and (I) the exclusion of which the President may deem, from time to time hereafter, to be justified in the public interest.

[(2) The term "Administrator" means the Administrator of General Services.

[(3) The term "Federal agency" means any executive agency of any establishment in the legislative or judicial branch of the Government (except the Senate, the House of Representatives, and the Architect of the Capitol and any activities under his direction).

[(4) The term "executive agency" means any executive department or independent establishment in the executive branch of the Government including any wholly owned Government corporation and including (A) the Central Bank for Cooperatives and the regional banks for cooperatives, (B) Federal land banks, (C) Federal intermediate credit banks, (D) Federal home loan banks, (E) Federal Deposit Insurance Corporation, and (F) the Government National Mortgage Association.

[(5) The term "alter" includes repairing, remodeling, improving extending or other changes in a public building.

[(6) The terms "construct" and "alter" include preliminary planning, engineering, architectural, legal, fiscal, and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other similar actions necessary for the construction or alternation, as the case may be, of a public building.

[(7) The term "United States" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States.

[SEC. 14. This act shall not apply to the construction of any public building—

[(1) for which an appropriation for construction is made out of the $500,000 made available for construction of small public building projects outside the District of Columbia pursuant to the Public Buildings Act of May 25, 1926, as amended, in the third paragraph, or for which an appropriation is made in the fourth, sixth, seventh, and eighth paragraphs, under the heading "GENERAL SERVICES ADMINISTRATION" in title I of the Independent Offices Appropriation Act, 1959,

[(2) which is a project referred to in the first proviso of the fifth paragraph under the heading "GENERAL SERVICES ADMINISTRATION" in title I of the Independent Offices Appropriation Act, 1959,

[(3) for which an appropriation for direct construction by an executive agency other than the General Services Administration of a specified public building has been made before the date of enactment of this Act, [(4) within the purview of title 8, United States Code, section 1252(c) or title 19, United States Code, section 68, as amended.

Sec. 15. The performance, in accordance with standards established by the Administrator of General Services, of the responsibilities and authorities vested in him under this Act shall, except for the authority contained in section 4, upon request, be delegated to the appropriate executive agency where the estimated cost of the project does not exceed $100,000, and may be delegated to the appropriate executive agency where the administrator determines that such delegation will promote efficiency and economy. No delegation of responsibility or authority made under this section shall exempt the person to whom such delegation is made, or the exercise of such responsibility or authority, from any other provisions of this Act.

[Sec. 16. Nothing in this act shall be construed to limit or repeal—

["(1) existing authorizations for the leasing of buildings by and for the General Services Administration; or

["(2) the authority conferred by law on the United States Postal Service."

[Sec. 17. The following provisions of law are repealed except as to their application to any project referred to in section 14:

[(1) The first sentence of section 6 of the Act entitled "An Act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and seventeen, and for other purposes", approved September 1, 1916 (40 U.S.C. 23).

[(2) The first sentence of the last paragraph under the side heading "Lighting and Heating for the Public Grounds" under the subheading "UNDER ENGINEERING DEPARTMENT" under the Heading "UNDER THE WAR DEPARTMENT" in the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and twelve, and for other purposes", approved March 4, 1911 (40 U.S.C. 24).

[(3) The proviso in the sixth paragraph under the side heading "In the Office of the Comptroller of the Currency" under the heading "TREASURY DEPARTMENT" in the Act entitled "An Act making additional Appropriations and to supply the Deficiencies in the Appropriations for the Service of the Government for the fiscal years ending June thirty, eighteen hundred and seventy, and June thirty, eighteen hundred and seventy-one, and for other Purposes", approved July 15, 1879 (40 U.S.C. 32).

[(4) Section 9 of the Act entitled "An Act making approporations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and eight, and for other purposes", approved March 4, 1907, as amended (40 U.S.C. 33).

[(5) That part of the fourth from last paragraph under the subheading "BUILDING AND GROUNDS IN AND AROUND WASHINGTON" under the heading "UNDER THE WAR DEPARTMENT" in the Act entitled "An Act making appropriations for sundry civil expenses of the government for the fiscal year ending June thirtieth, eighteen hundred and eighty-four, and for other purposes", approved March 3, 1883 (40 U.S.C. 59), as reads "; and all officers in charge of public buildings in the District of Columbia shall cause the flow of water in the buildings under their charge to be shut off from five o'clock postmeridian to eight o'clock antemeridian: *Provided*, That the water in said public buildings is not necessarily in use for public business".

[(6) Section 2 of the act entitled "An Act to authorize the Secretary of the Treasury to suspend work upon the public buildings", approved June 23, 1874, as amended (40 U.S.C. 254).

[(7) The thirty-first and thirty-second paragraphs under the subheading "PUBLIC BUILDINGS" under the heading "UNDER THE TREASURY DEPARTMENT" in the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety, and for other purposes", approved March 2, 1889, as amended (40 U.S.C. 260 and 268).

[(8) The fifth from the last paragraph under the subheading "PUBLIC BUILDINGS" under the heading "UNDER THE TREASURY DEPARTMENT" in the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and ten, and for other purposes", approved March 4, 1909, as amended (40 U.S.C. 262).

[(9) The proviso in the fortieth paragraph under the subheading "PUBLIC BUILDINGS" under the heading "UNDER THE TREASURY DEPARTMENT" in the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and eighty-three, and for other purposes", approved August 7, 1882, as amended (40 U.S.C. 263).

[(10) The proviso in the last paragraph of section 5 of the Act entitled "An Act to increase the limit of cost of certain public buildings, to authorize the enlargement, extension, remodeling, or improvement of certain public buildings, to authorize the erection and completion of public buildings, to authorize the purchase of sites for public buildings, and for other purposes", approved March 4, 1913 (40 U.S.C. 264).

[(11) Section 35 of the Act, entitled "An Act to increase the limit of cost of certain public buildings, to authorize the enlargement, extension, remodeling, or improvement of certain public buildings, to authorize the erection and completion of public buildings, to authorize the purchase of sites for public buildings, and for other purposes", approved June 25, 1910, as amended (40 U.S.C. 265).

[(12) Section 3734 of the Revised Statutes of the United States, as amended (40 U.S.C. 267).

[(13) The last paragraph under the subheading "PUBLIC BUILDINGS" under the heading "UNDER THE TREASURY DEPARTMENT" in the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-six, and for other purposes", approved March 2, 1895, as amended (40 U.S.C. 274).

[(14) The second and fourth provisos in the paragraph with the side heading "Furniture and repairs of furniture" under the subheading "PUBLIC BUILDINGS: OPERATING EXPENSES" under the heading "TREASURY DEPARTMENT" in the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and seventeen, and for other purposes", approved July 1, 1916, as amended (40 U.S.C. 275 and 282).

[(15) The fourth from the last paragraph under the subheading "PUBLIC BUILDINGS" under the heading "UNDER THE TREASURY DEPARTMENT" in the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and one, and for other purposes", approved June 6, 1900, as amended (40 U.S.C. 276).

[(16) That part of the proviso in the last paragraph under the subheading "PUBLIC BUILDINGS" under the heading "UNDER THE TREASURY DEPARTMENT" in the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-three, and for other purposes", approved August 5, 1892, as amended (40 U.S.C. 277), which reads ": nor shall there hereafter be paid more than six dollars per day to any person employed outside of the District of Columbia, in any capacity whatever, whose compensation is paid from appropriations for public buildings in course of construction, but the Secretary of the Treasury may, in his discretion, authorize payment in cities of eighty thousand or more inhabitants of a sum not exceeding eight dollars per day for such purposes".

[(17) So much of the eighth from the last paragraph under the subheading "PUBLIC BUILDINGS" under the heading "UNDER THE TREASURY DEPARTMENT" in the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and eighty-eight, and for other purposes", approved March 3, 1887, as amended (40 U.S.C. 278) as reads, "and hereafter where public buildings shall be completed with the exception of heating apparatus and approaches but one person shall be employed by the Government for the supervision and care of such building".

[(18) Titles I and III and sections 401 and 406 of the Public Buildings act of 1949 (40 U.S.C. 352, 353, 354, 297, 297a, 298, and 298c).

[(19) Except for sections 3 and 8, all of the Act entitled "An Act to provide for the construction of certain public buildings, and for other purposes", approved May 25, 1926, as amended (40 U.S.C. 341 and the following).

[(20) The proviso in the next to last paragraph under the subheading "MISCELLANEOUS PUBLIC BUILDING PROJECTS" under the heading "TREASURY DEPARTMENT" in the Act entitled "An Act making appropriations to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1928, and prior fiscal years, to provide supplemental appropriations for the fiscal year ending June 30, 1928, and for other purposes", approved December 22, 1927 (40 U.S.C. 342a).

[(21) Section 3 of the Act entitled "An Act authorizing the Secretary of the Treasury to acquire certain lands within the District of Columbia to be used as sites for public buildings", approved January 13, 1928, as amended (40 U.S.C. 348).

[(22) Subsections (c) and (e) of the Act entitled "An Act to amend the Act entitled 'An Act to provide for construction of certain public buildings, and for other purposes,' approved May 25, 1926 (Forty-fourth Statutes, page 630); the Act entitled 'An Act to amend section 5 of the Act entitled "An Act to provide for the construction of certain public buildings, and for other purposes," approved May 25, 1926,' dated February 24, 1928 (Forty-fifth Statutes, page 137); and the Act entitled 'An Act authorizing the Secretary of the Treasury to acquire certain land within the District of Columbia to be used as space for public buildings,' approved January 13, 1928 (Forty-fifth Statutes, page 51)", approved March 31, 1930, as amended (40 U.S.C. 349 and 350a).

[(23) The Act entitled "An Act to authorize the Secretary of the Treasury to accept donations of sites for public buildings", approved June 27, 1930, as amended (40 U.S.C. 350).

[SEC. 18 [omitted] Section 18 authorizes the Commission of the District of Columbia to provide for the development, construction, operation, and maintenance of the Dwight D. Eisenhower Memorial Bicentennial Civic Center. Added by Act of Oct. 21, 1972, Pub. L. 92-520, § 2, 86 Stat. 1019.]

This Act may be cited as the "Public Buildings Act of 1983".

SEC. 2. It is hereby declared to be the policy of the Congress that the public buildings of the United States Government shall be located, designed, furnished, and maintained so as to insure the highest productivity and efficiency of Federal agencies and their employees and, further, to provide Government services throughout the United States in locations convenient to the people, to preserve and advance the Nation's legacy of architectural excellence, and to enhance commercial and cultural conditions in the vicinity of public buildings.

TITLE I—GENERAL AUTHORITIES

SEC. 101. (a) Except as provided in subsection (b), the Administrator of General Services, acting through the Public Buildings Service, in conformance with the policies and provisions of this Act, shall have sole authority to acquire, design, construct, lease, manage, maintain, repair, renovate, and assign and reassign space in, buildings and sites to meet the public buildings needs of the Government.

(b) The provisions of subsection (a) do not supersede any specific authority granted by statute prior to the date of enactment of this Act to the head of a Federal agency with respect to the acquisition, design, construction, leasing, management, maintenance, repair, renovation, or assignment and reassignment of space in buildings of that agency.

SEC. 102. There is hereby established in the General Services Administration a Public Buildings Service. There shall be at the head of the Public Buildings Service a Commissioner of Public Buildings who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level IV of the Executive Schedule (5 U.S.C. 5332).

SEC. 103. There shall be within the Public Buildings Service a Supervising Architect who shall be appointed by the Administrator of General Services and shall be compensated at the rate provided for level V of the Executive Schedule (5 U.S.C. 5332). The Supervising

Architect shall supervise all design activities of the Public Buildings Service and shall perform such other duties as the Commissioner of Public Buildings may designate.

Sec. 104. Any authorities described in section 101 of this Act that have been delegated by the Administrator to another Federal agency prior to the date of enactment of this Act shall be revoked and vested in the Administrator on the one-hundred-and-twentieth day after the effective date of this Act unless, prior to said day, the Administrator has delegated such authority in accordance with section 105 of this Act.

Sec. 105. Notwithstanding the provisions of section 205 of the Federal Property and Administrative Services Act of 1949, as amended, the Administrator may delegate all or a portion of his authorities under this Act to the head of another Federal agency, but only with respect to the public buildings needs of that agency.

Sec. 106. The head of any Federal agency delegated authorities pursuant to section 105 of this Act, shall exercise those authorities in conformance with the provisions of this Act; however, the head of any such agency shall not submit the report required in section 107 but shall submit the information required in section 107 to the Administrator for inclusion in his records and reports.

Sec. 107. (a) The Administrator shall submit a report to the Congress on or before February 1 of each year describing activities undertaken, directly by him, or under authorities delegated pursuant to section 105 of this Act, to meet the public buildings needs of Federal agencies in the preceding fiscal year. Such report shall include, but is not limited to—

(1) an inventory of all public buildings, including for each building its location and the amount of space and number of employees assigned to each Federal agency;

(2) an inventory of locations of Federal agency offices in leased buildings, including for each leased location its annual leasing costs, total expected leasing costs over the remaining term of the lease, and the amount of space and number of employees assigned to each Federal agency;

(3) a list of all construction and renovation projects completed and in progress and the degree of progress toward the completion of each;

(4) a list of all leases and lease renewals executed;

(5) a list of construction, acquisition, and renovation projects the cost of which have exceeded, or are expected to exceed, the maximum cost set forth in any annual authorization under this Act, whether or not such projects meet the criteria established in section 806 of this Act;

(6) a list of all delegations of authority made by the Administrator pursuant to section 105 of this Act;

(7) a report on activities undertaken pursuant to—

(A) titles IV and V of this Act;

(B) section 210(a)(6) of the Federal Property and Administrative Services Act of 1949, as amended, or by transfer of funds from any Federal agency; and

(8) a discussion of achievements and problems in carrying out provisions of this Act and in meeting the public buildings needs of the Government.

(b) The Administrator shall collect and maintain such information as may be necessary to keep the Congress fully and currently informed of the conduct of the Public Buildings Service and to manage activities required under the provisions of this Act. Within one year after enactment of this Act, the Administrator shall assure that information is available on—

(1) for each public or leased building—

(A) the amount of vacant space,

(B) the amount of space leased under section 102 of the Public Buildings Cooperative Use Act of 1976, as amended,

(C) building operations costs,

(D) needed repairs and renovation,

(E) energy consumed,

(F) the extent to which it is fully accessible to physically handicapped persons in accordance with the Architectural Barriers Act of 1968, as amended,

(G) the percent of the building leased by the Government,

(H) the total amount of funds that have been expended in improvements or alternations to each leased building, and

(I) the term of any leases in effect and their expiration dates.

(2)(A) All contracts in effect for architectural, engineering, construction, maintenance, protection, research and other services, including for each the name of the contractor, the services performed, and contract term and price, and

(B) the space utilization rate for each Federal agency.

(c) By February 1 of each year, each head of a Federal agency pursuant to exercising authority referred to in section 101(b) shall submit a report to the Committee on Environment and Public Works of the Senate and Committee on Public Works and Transportation of the House describing the activities conducted by the agency pursuant to that authority to meet the public buildings needs of the agency in the preceding fiscal year.

SEC. 108. (a) The Administrator shall require, prior to executing any lease or other contract which would obligate funds in excess of $10,000 authorized pursuant to this Act, a certification from the owner of the space to be leased or the contractor. Any owner or contractor who fails to complete such certification required under this subsection shall not be eligible to receive a lease or contract award. Such certification shall include, but need not be limited to, statements, declaring under penalty of law provided under section 1001 of title 18, United States Code, or elsewhere:

(1) that such owner or contractor, or any of his officers or principal employees—

(A) has no business or employment relationship or interest or holding which constitutes a conflict of interest with his capacity as a lessor or contractor with the United States;

(B) has not offered or promised anything of value to a public official, in connection with the lease or other contract under consideration, with the intent to influence any official act or to induce the official to perform, or to omit to perform, any act in violation of his lawful duties or to

offer or give anything of value to a public official for performing an official act.

(2) whether such owner or contractor, or any of his officers or principal employees has been debarred or suspended from the award of public contracts;

(3) whether such owner or contractor, or any of his officers or principal employees has had a public contract terminated for default; and

(4) whether such owner or contractor, or any of his officers or principal employees has been convicted of, or is currently under indictment for or otherwise charged with—

(A) a criminal offense incident to obtaining or attempting to obtain a public (Federal, State or municipal) or private contract or subcontract thereunder, or in the performance of such a contract or subcontract;

(B) a violation of the Organized Crime Control Act of 1970;

(C) a violation of Federal antitrust statutes arising out of the submission of bids or proposals or;

(D) embezzlement, theft, forgery, bribery, falsification or destruction of records, fraud, tax fraud, receiving stolen property, or equivalent crimes which are indicative of a lack of business integrity.

(b) In the event an owner or contractor replies in the affirmative to any of the certifications required pursuant to clauses (2), (3) or (4) of subsection (a), then the Inspector General of the General Services Administration shall be notified, and no lease or contract award shall be made to that owner or contractor:

(1) until the Inspector General of the General Services Administration advises the contracting officer on the suitability and integrity of the owner or contractor;

(2) until the contracting officer submits a written report as to why the lease or contract may be awarded notwithstanding the affirmative certification; and

(3) unless the appropriate Regional Administrator for the General Services Administration, or an equivalent official, approves in writing the lease or contract award notwithstanding the affirmative certification.

(c) Such written approval required under clause (3) of subsection (b) may not be delegated to a subordinate official.

(d) The Administrator shall provide in the annual report required under section 107(a) of this Act, the name of each principal owner of blocks of space exceeding fifty thousand square feet which are leased during the fiscal year covered by the report.

Sec. 109. (a) The Administrator shall keep the Congress fully and currently informed of policies and activities of the General Services Administration within the purview of this Act. In addition, he shall make available to the Committee on Environmental and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives on request, and in such manner as may be necessary to safeguard individual rights or the conduct of criminal investigations, any document, material, information or report under his jurisdiction.

Such reports as are required to be transmitted to appropriate committees of the Congress by the Administrator in accordance with sections 5(b) and 5(d) of Public Law 95–452 that pertain to problems, abuses, or deficiences arising under this Act, shall be transmitted simultaneously to the Committee on Environmental and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

SEC. 110. When he deems it to be in the public interest, the Administrator may relinquish to a State, Commonwealth, territory, or possession of the United States, such legislative jurisdiction over lands or public buildings as is necessary to establish concurrent jurisdiction between the Federal Government and the State, Commonwealth, territory, or possession concerned. Such partial relinquishment of legislative jurisdiction shall be accomplished by filing a notice of relinquishment with the Governor (or, if none exists, with the chief executive officer) of the State, Commonwealth, territory, or possession concerned to take effect upon acceptance thereof, or as the laws of the State, Commonwealth, territory, or possession may otherwise provide.

SEC. 111. The Administrator shall be responsible for the interpretation of all contracts entered into on behalf of the United States Government to carry out the purposes of this Act, and shall be responsible for the approval of materials, workmanship, and services supplied pursuant to such contracts, approval of changes in contracts, certification of vouchers for payments due contractors, and final statements.

SEC. 112. Nothing in this Act shall be construed to affect the authorities granted in section 403f, 403g, or 403j of title 50, United States Code.

SEC. 113. As used in this Act—

(1) The term "Administrator" means the Administrator of General Services.

(2) The term "Federal agency" means any department or independent establishment in the executive branch of the Government, including any wholly owned Government corporation, and any establishment in the legislative or judicial branch of the Government (except the Senate, the House of Representatives, and the Architect of the Capitol and activities under his direction).

(3) The term "office" means any organizational component of a Federal agency or other public or private enterprise and also means the physical space in which the work of the component is conducted.

(4) The term "officers and employees of the Government" means all persons included under sections 2104 and 2105 of title 5 of the United States Code.

(5) The term "locality" means a city, county, town, parish, village, or other area governed by a general purpose political subdivision of a State.

(6) The term "geographical area" means an area encompassing a population of no less than one million persons, except that in the case of a State or territory having a population of less than one million persons, it means the State or territory.

(7) The term "acquire" or "acquisition" includes purchase, payment for an option to purchase, condemnation, donation, and exchanges of real property, or interests therein, excluding leaseholds.

(8) The term "renovation" means alteration, addition, partial demolition, and other such actions that significantly enhance or change the use or architectural design of a public building.

(9) The term "major construction and acquisition project" means construction or acquisition of a building of ten thousand gross square feet of floor space or the acquisition of a site at a total cost of one million dollars or more.

(10) The term "major renovation, alteration and repair project" means such a project having a total cost of one million dollars or more.

(11) The term "historic, architectural, or cultural signifiance" includes, but is not limited to buildings listed or eligible to be listed on the National Register established under section 101 of the Act of October 15, 1966 (16 U.S.C. 470a).

(12) The term "handicapped person" includes any individual with a physical impairment that precludes such person's use of a building to the same extent as an individual with unimpaired mobility.

(13) The term "fully accessible" means the absence or elimination of physical and communications barriers to the ingress, egress, movement throughout, and use of a building by handicapped persons and the incorporation of the most scientifically advanced research, technology and equipment to assure access to a building by handicapped persons and, in a building of historic, architectural, or cultural significance, the elimination of such barriers and the incorporation of such research, technology, and equipment in such a manner as to be compatible with the significant architectural features of the building to the maximum extent possible.

(14) The term "public building" means any building along with its grounds, approaches, and appurtenances, owned by the United States Government or the subject of a contractural or other agreement under which it may be owned by the United States Government at some certain date in the future, that accommodates, did accommodate, or is intended to accommodate Federal agency offices, and includes, but is not limited to office buildings, courthouses, border stations, garages and warehouses, and any other building or construction project the inclusion of which the President may deem to be in the public interest, but does not include buildings or installations of the United States Postal Service, except as provided for under section 2002(b) of the Postal Reorganization Act, or buildings or installations of the Tennessee Valley Authority, or buildings of the Government Printing Office, or buildings: on the public domain (including that reserved for national forests and other purposes), on properties of the United States in foreign countries, on Indian and native Eskimo properties held in trust by the United States, on lands used in connection with Federal programs for agricultural, recreational, and conservation purposes, on or used in connection with river, harbor, flood control, reclamation or power projects, chemical manufacturing or developing projects, or for nuclear production, research, or development projects, on military installations (including any fort, post, airbase, proving ground, supply depot, school or similar facility of the Department of Defense), on Veterans' Administration installations used for hospital, nursing home, or domiciliary purposes, on or used in connection with housing and

residential projects, or on the United States Capitol grounds delineated in section 193(a) of title 40, United States Code.

(15) The term "public buildings needs" means the requirements of Federal agencies for suitable space, whether or not in a Government-owned building, to accommodate offices that may be located in a public building as defined in subsection (14) of this section, and includes requirements for space in accordance with section 102 of the Public Buildings Cooperative Use Act of 1976, as amended.

(16) The term "National Capital region" has the same meaning that it bears in section 71(b) of title 40, United States Code.

TITLE II—LOCATIONS FOR FEDERAL AGENCY OFFICES

SEC. 201. (a) The headquarters offices of each department and major independent establishment in the executive branch shall be located within the National Capitol region in conformance with the comprehensive plan prepared and adopted pursuant to the National Capitol Planning Act of 1952, as amended, unless otherwise specified by Act of Congress.

(b) Regional, district, area, or local offices of Federal agencies shall be located so as to be centrally located with respect to, in proximity to, or within easy transportation access of, residential populations they serve or other governmental and private offices with which they must maintain continuing and frequent physical communication.

(c) Federal agency offices other than those that are located pursuant to subsections (a) or (b) of this section, or that otherwise must be located close to specific governmental or private offices or in specific geographic locations in order effectively to carry out their responsibilities, shall be located throughout the United States generally in proportion to the geographic distribution of the Nation's population.

SEC. 202. After conforming with section 201, the Administrator shall, in consultation with local officials, take into account the following factors in locating Federal agency offices—

(1) the costs, including relocation and operating costs, of proposed locations;

(2) in the case of any office located in a standard metropolitan statistical area, the feasibility and desirability of a location in the central business district of a city within that area;

(3) the proximity of existing or planned public transportation facilities;

(4) the proximity of public amenities and commercial facilities;

(5) the availability, nearby or within reasonable public transportation commuting distance, of existing or planned housing adquate to the needs of present and prospective Federal employees and available on a nondiscriminatory basis.

SEC. 203. In responding to the public buildings needs of Federal agencies and in planning for future such needs, the Administrator shall first comply with sections 201 and 202 and shall—

(1) review needs to determine if they can be met in whole or in part through more productive use of existing space;

(2) prior to acquiring, constructing, or leasing space in any other building, locate Federal agency offices—

(A) in existing public buildings, giving first priority to utilizing fully, by renovating if need be, those public buildings of historic, architectural, or cultural significance; and if public building space is not available, then,

(B) in buildings of historic, architectural, or cultural significance acquired by the Administrator, and renovated if need be, unless use of such space would not prove feasible and prudent (taking into account cost, expected date of occupancy, and the potential for the conservation of energy) compared with construction of a public building, and if such building space is not available, then,

(C) in existing buildings acquired by the Administrator and renovated if need be, or in new buildings constructed by the Administrator under the provisions of this Act, and if such building space cannot by made available in time to meet urgent public buildings needs, then,

(D) in building space leased by the Administrator in accordance with the provisions of title VII of this Act, giving first priority to leasing space in buildings, of historic, architectural, or cultural significance, unless such leasing would not prove feasible and prudent compared with the cost and with the potential for the conservation of energy of leasing at another location.

SEC. 204. Federal agency offices in a locality may be consolidated to the extent justified by the need for immediate physical proximity and by anticipated cost savings—

(A) first, within and among the offices of a single Federal agency,

(B) second, within and among the offices of Federal agencies carrying out related functions, and

(C) third, within and among other Federal agency offices, and generally so that resulting public buildings needs may, to the maximum extent possible, be met by using existing public buildings, by constructing or acquiring buildings of a scale similar to the predominant scale of buildings existing in or planned for their surroundings, or by acquiring two or more reasonably proximate buildings, particularly buildings of historic, architectural, or cultural significance.

SEC. 205. (a) In the event that the head of a Federal agency determines that the location assigned to any office of fifty or more employees of that agency by the Administrator would be deleterious to the efficient accomplishment of the office's responsibilities, the agency head may appeal the decision of the Administrator to the Director of the Office of Management and Budget. The Director shall review the Administrator's decision within thirty days in accordance with the provisions of this title, and shall nullify the decision only if the Director finds the Administrator's decision not reasonably supported by the facts. The Director shall report the findings of any review undertaken pursuant to this section within ten days to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

(b) Notwithstanding the provisions of subsection (a) of this section, in the event that the Director of the Administrative Office

of the United States Courts determines that the location assigned to an office of the judicial branch by the Administrator would be deleterious to the efficient accomplishment of the office's responsibilities, the Director shall report such determination to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

SEC. 206. (a) Noncompliance with the provisions of this title of this Act on the date of enactment shall not be construed to require the relocation of any Federal agency office.

(b) Any action to locate or relocate any Federal agency office subsequent to the date of enactment of this Act shall be undertaken in conformance with the provisions of this Act.

TITLE III—DESIGN AND MANAGEMENT OF PUBLIC BUILDINGS

SEC. 301. The Administrator shall design and maintain public buildings in such manner that they bear visual testimony to the dignity, enterprise, vigor, and stability of the American Government, embody the finest contemporary American architectural thought, and where appropriate, reflect regional architectural traditions.

SEC. 302. Except as provided in section 303, public buildings shall be of such design and construction as to approximate the costs, durability, and ratio of net usable space to gross space of commerical buildings that serve similar purposes. In any case in which the Administrator, pursuant to section 801 of this Act, requests authorization for appropriations for a public building that would exceed the cost, durability, or space standards of this section, he shall explain the amount and cause of such excess in the list required pursuant to section 801(a)(2).

SEC. 303. Whenever the Administrator designs and constructs—

(1) a general purpose office building expected to attract significant public use in any locality that serves as a center of its geographical region or area, or

(2) a headquarters building for any Federal agency, such public building shall be designed and constructed to higher standards of quality than that provided for in section 302 of this Act and such design and construction shall symbolize the dignity of the United States Government through the quality or scale of some or all of its architectural details, materials, and public areas: Provided, That this section shall not apply to public buildings described in clause (1) of this section whenever the Administrator determines that there already exists in the locality a public building of the quality described in this section.

SEC. 304. In the design, construction, acquisition, renovation, and management of public buildings, the Administrator shall assure that, to the extent possible, and consistent with minimizing costs, such buildings—

(1) conform to or complement the scale of existing or planned surrounding buildings;

(2) conserve energy;

(3) provide efficient and attractive interiors, including public reception areas;

(4) provide parking space for Government motor vehicles and handicapped employees as necessary, and such other parking space for visitors and employee vehicles as is consistent with a general policy of transportation efficiency and energy conservation; and

(5) contain architectural details and hardware that are an intergral part of the structure or fixtures and that are designed and fabricated so as to enhance the function and appearance of the public building and to reflect regional architectural traditions or Federal agency functions. Artisans and craftsmen expert in the creative use of such materials as stone, brick, metal, wood, and stained glass may be employed to carry out the purposes of this paragraph. To the extent that items designed and fabricated pursuant to this paragraph exceed the ordinary cost of such items, funds allocated pursuant to section 503(c) of this Act shall be used to defray the additional cost.

SEC. 305. The Administrator shall provide sheltered and secure locations and equipment for parking bicycles, and may provide suitable support facilities, at each new public building as necessary to facilitate bicycle use by employees and visitors. He shall provide similar bicycle parking and facilities at existing public buildings and leased buildings where he determines bicycle use is, or may become of sufficient magnitude to warrant the expenditure required.

SEC. 306. (a) Public buildings shall be maintained at all times at a high level of appearance, cleanliness, and mechanical and structural fitness so as to maintain the dignified appearance of Federal offices and the health, safety, and efficiency of Federal employees, and to minimize major repair and replacement expenditures.

(b) Each public building shall be maintained and renovated so as to promote efficient Federal agency and public use and to preserve those portions or features that are significant to the building's historic, architectural, or cultural values.

SEC. 307. (a) Nothing in this Act (except for the provisions of this section) shall affect the applicability of the provisions of the act of August 12, 1968, as amended, commonly known and hereinafter referred to as the Architectural Barriers Act of 1968, as amended, to any building or facility.

(b) The Architectural Barriers Act of 1968 is amended—

(1) in clause (1) of the first section, by striking out "constructed or altered" and inserting in lieu thereof, "constructed, altered, or acquired";

(2) in sections 2, 3, 4, and 4a, by striking out "physically handicapped persons will have ready access to, and use of, such buildings" and inserting in lieu thereof "such buildings are fully accessible to physically handicapped persons";

(3) in section 5, by inserting before the period a common and "and any contract for all or any part of the design, construction, or alteration involved shall so provide"; and

(4) in section 6—

(a) by inserting "(a)" before "The";

(B) by inserting "(hereinafter in this section referred to as the 'standard-prescribing agency head concerned')" after "section 4a of this Act";

(C) by striking out "the Administrator or Secretary, as the case may be" and inserting in lieu thereof "the standard-prescribing agency head concerned"; and

(D) by adding a new subsection as follows:

"(b) No action may be taken under this section to modify or waive a standard issued under this act unless—

"(1) in the case of a waiver, the waiver pertains to a building to be leased (other than a building to be constructed for lease) and the waiver is necessary to meet an emergency situation, or

"(2) in the case of a modification (A) the modification is not broader than necessary, and (B) in the case of a building to be constructed or altered, (i) the need for such modification was not reasonably foreseeable when the design for such construction or alteration was approved, or (ii) the standard-prescribing agency head concerned determines, pursuant to regulations prescribed by such agency head, that such modification is essential to achieving the purposes of the construction or alteration." and

(4) by inserting at the end the following new section:

"SEC. 8. As used in this Act—

"(1) the term 'physically handicapped person' means any individual with a physical impairment that precludes such person's use of a building to the same extent that an individual with unimparied mobility can use such building.

"(2) the term 'fully accessible' means the absence or elimination of physical and communications barriers to the ingress, egress, movement, and use of a building by handicapped persons and the incorporation of such equipment as is necessary to provide such ingress, egress, movement, and use and, in a building of historic, architectural, or cultural significance, the elimination of such barriers and the incorporation of such equipment in such a manner as to be compatible with the significant architectural features of the building to the maximum extent possible.".

SEC. 308. (a) The Administrator is authorized, pursuant to subsection (b) of this section, and upon the request of appropriate local and State officials, to name any public building after, and establish a memorial in any public building in honor of, any person who has made notable contributions to government, science, industry, education, the arts, or other fields of human endeavor. Such persons, if living, must be at least seventy years of age. No public building shall be named for a sitting Member of Congress or for a former Member of Congress who holds any other elective public office.

(b) The Administrator is authorized to expend, out of any funds available to him in any fiscal year, an amount equal to but no greater than contributions provided by State or local governments or private entities or individuals, and in no event greater than the sum of $10,000, for the design and construction of a memorial to a person designated pursuant to subsection (a) of this section, or designated by an Act of Congress.

(c) The Administrator, in consultation with appropriate local and State officials and other interested citizens, shall determine the

form and location of such memorials. The memorials shall be fountains, gardens, walks, stained glass windows, or other building appurtenances visible and accessible to visitors, and in harmony with the architectural and landscape design of such building. The Administrator shall provide maintenance for such memorials.

(d) The Administrator may conduct a competition to select a designer for the memorial authorized by this subsection. Such competition shall be open to landscape and other architects, artists, artisans, and designers.

SEC. 309. (a) The Administrator shall study the efficiency and economy of the use of space in public buildings by Federal agencies and shall employ appropriate means, including consolidation, reassignment, relocation and cancellation of leases, to increase the cost-effectiveness of space utilization by the Government.

(b) Whenever the Administrator finds, pursuant to subsection (a), space in public buildings or leased buildings which is vacant, underutilized or otherwise inefficiently or uneconomically utilized, he may lease or outlease such space, as the case may be, upon terms and conditions deemed to be in the public interest, without regard to section 203 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484). To assist in carrying out this section, the Administrator, may utilize the services of private real estate brokers, notwithstanding the provisions of section 3709, Revised Statutes.

SEC. 310. In order to reduce Government expenditures and promote the maximum utilization of space of Federal agencies, and subject to section 202 of the Federal Property and Administrative Services Act of 1949, the head of each Federal agency shall furnish to the Administrator, by April 1, 1984 and at frequent intervals thereafter an inventory of all excess and underutilized space under the custody and control of the former which is generally suitable for reassignment for use of other Federal agencies. The President shall promulgate rules and regulations regarding the inventory and space reassignments pursuant to it.

SEC. 311. Notwithstanding section 203 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490 (j)), the Administrator shall notify the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House in writing before disposing of any public building or site, suitable for the construction of a public building, by sale, exchange, transfer, or other type of disposal for cash, credit, or other property. The disposal may be carried out only at the end of the 30 day period beginning on the date the notification is received by such Committees.

TITLE IV—MIXED USE AND ADAPTIVE USE IN PUBLIC BUILDINGS

SEC. 401. This title may be cited as the "Public Buildings Cooperative Use Act Amendments of 1983".

SEC. 402. (a) Section 102 (a)(2) of the Public Buildings Cooperative Use Act of 1976 is amended to read as follows:

> *"(2) encourage the location of commercial, cultural, educational, and recreational activities as tenants primarily on major*

pedestrian access levels, courtyards, and rooftops of public buildings, and design, construct and lease space suitable for such activities: Provided, That the amount of space so leased in any public building—

"(A) shall be determined by the Administrator in light of the market for such activities or the need and potential for promoting commercial or cultural activity in the vicinity of the building or serving the employees and visitors in the building; and

"(B) shall not exceed 15 per centum of the occupiable space in the public building, except in instances where the Administrator determines that the configuration of pedestrian access levels in the building justifies the leasing of a greater amount of space;"

(b) Section 102(a)(4) of the Public Buildings Cooperative Use Act of 1976 is amended to read as follows:

"(4) encourage the public use of public buildings for occasional cultural, educational, and recreational activities and design, construct, and maintain space and equipment in public buildings suitable for such activities, including activities described in section 503(a) of the Public Buildings Act of 1983.".

SEC. 403. Section 103 of the Public Buildings Cooperative Use Act of 1976 is repealed and sections 104 and 105 are redesignated as sections 103 and 104, respectively.

SEC. 404. Section 103(a) of the Public Buildings Cooperative Use Act of 1976, as amended, and the first sentence of section 210(a)(16) of the Federal Property and Administrative Services Act of 1949 are amended to read as follows:

"(16) to enter into leases of space in public buildings, in accordance with section 102(a)(2) of the Public Buildings Cooperative Use Act of 1976, as amended, with persons, firms, or organizations engaged in commercial, cultural, educational, or recreational activities (as defined in section 104 of the Public Buildings Cooperative Use Act of 1976, as amended).".

SEC. 405. Section 104 of the Public Buildings Cooperative Use Act of 1976, as amended, is amended by striking paragraph (2) and inserting in lieu thereof the following:

"(2) The terms 'public building' and 'Federal agency' have the same meaning as are given them in section 113 of the Public Buildings Act of 1983.".

TITLE V—EXHIBITIONS AND WORKS OF ART

SEC. 501. This title may be cited as the "Federal Buildings Enhancement Act of 1983".

SEC. 502. (a) The Congress hereby finds and declares that—

(1) the efficient use of Federal buildings can be increased, and public satisfaction with Federal buildings will be improved, by insuring that such buildings not ony provide a congenial work environment but also function attractively for public service;

(2) Federal buildings should enrich the social, commerical, and cultural resources of the communities they serve; and

(3) Federal buildings will be enhanced by temporary exhibitions of art works and of the Nation's cultural heritage, as well

as by suitable permanent works of art incorporated as an integral part of the architecture of Federal buildings.

(b) It is, therefore, the policy of the Congress to encourage and secure Federal building design which is distinguished, which expresses the dignity, enterprise, and stability of the American Government, and which enriches the quality of life in the communities served by such buildings. It is the purpose of this Act to contribute to such design by incorporating permanent installations of suitable works of art into Federal buildings. It is the further purpose of this Act to enhance existing Federal buildings by providing for temporary exhibitions of art and history to be circulated among Federal buildings.

SEC. 503. (a)(1) The Administrator, with the advice and assistance of the chairman of the National Endowment for the Arts, shall acquire by loan, or by lease at nominal fees, works of art by living American artists. Works of art loaned or leased under this subsection shall be organized into exhibitions and circulated by the Administrator among Federal buildings throughout the United States. Such works of art shall be selected from artists representative of the different regions of the United States and its territories, and shall include diverse artistic media.

(2) The Administrator, in conjunction with the Secretary of the Smithsonian Institution, and with other not-for-profit traveling exhibition services shall utilize existing exhibitions and develop new exhibitions which reflect the artistic, cultural, social, scientific, and industrial heritage of the United States or the continuing development of the Nation's art, culture, society, science, and industry.

(A) The Administrator shall circulate and show exhibitions developed under this subsection in Federal buildings throughout the United States. Preference shall be given to Federal buildings in communities that otherwise do not have convenient access to museums of art and history.

(B) The Administrator shall reimburse the Smithsonian Institution and other traveling services an amount not less than the cost to the Institution or to such other services of carrying out the provisions of this subsection.

(b)(1) The Administrator, with the advice and assistance of the Chairman acting in cooperation with the appropriate arts agencies at State and local levels, shall commission suitable works of art by American artists to be purchased and installed in Federal Buildings. The preliminary planning and design of each new Federal building shall include planning for such commissions, which may include a variety of compatiable works. The Administrator shall insure that Federal buildings selected for the installation of such commissioned works of art are equitably distributed within the United States and its territories, and shall consider a diversity of artistic media in commissioning such works of art. The Administrator shall provide for necessary services to maintain and preserve such works of art.

(2) Whenever the Administrator commissions a work of art for a new Federal building pursuant to paragraph (1) of this subsection, he shall instruct that such work shall be an integral part of the architectural design. In the case of an existing public building, such work shall be appropriate to the setting and space available. The

Administrator shall seek to avoid the development of an official style either in architecture or associated works of art. Federal commissions should give expression to the vitality and diversity of American life.

(3) In carrying out the provisions of this subsection, the Administrator, with the advice and assistance of the Chairman acting in consultation with the appropriate arts agencies at State and local levels, shall establish such procedures as may be necessary to commission suitable works of art, with or without competition, and shall give full consideration to the participation of local artists.

(c)(1) For the purpose of this section, the Administrator is authorized one-half of 1 per centum of the total sums available in fiscal year 1985 and each fiscal year thereafter for the design, construction, repair, renovation, alteration, and acquisition of public buildings.

(2) Funds available under this subsection shall be available, without fiscal year limitation, to the Administrator for the purposes set forth in subsections (a) and (b) of this section, and in subsection 304(5); Provided, That not to exceed 25 per centum of such funds shall be expended for purposes set forth in subsection (a) of this section, and not to exceed 75 per centum of such funds shall be expended for purposes set forth in subsection (b) of this section and for purposes set forth in subsection 304(5).

(d) For the purpose of this title—

"(1) the term 'Federal buildings' means public buildings, under the jurisdiction of the Administrator of General Services, that attract, or are expected to attract, significant public use;

"(2) the term 'Chairman' means the Chairman of the National Endowment for the Arts; and

"(3) the term 'works of art' includes, but is not limited to, paintings, sculptures, crafts, works on paper, and environmental works.".

TITLE VI—ARCHITECTURAL SERVICES

SEC. 601. The Administrator shall employ professionally trained architects, engineers, landscape architects, interior and graphic designers, and urban planners to prepare, under the supervision of the Supervising Architect, plans, drawings, and specifications for such public building construction and renovation projects as the Commissioner of Public Buildings may designate, but in any case to provide the kind and number of projects necessary annually to enable such employees to utilize their professional skills and training.

SEC. 602. (a) Those architectural services not provided pursuant to section 601 shall be procured in accordance with title IX of the Federal Property and Administrative Services Act of 1949, as amended, and the Administrator shall conduct a design competition among no fewer than three qualified architectural firms to select the architects for a substantial portion of the public building construction and renovation projects each year, including—

(1) any renovation project involving extensive architectural changes or additions to a building of historic, architectural, or cultural significance;

(2) any construction project for a building of high public use or visibility, including, but not limited to any building provided pursuant to section 303 of this Act;

(3) any project presenting special design problems or opportunities related to structure, function, or compatibility with surroundings.

(b) The Administrator shall indicate each year, in the program submitted pursuant to section 801 of this Act, those public building construction and renovation projects with respect to which he proposes to conduct design competitions.

(c) With respect to a significant portion of the competitions conducted each year, the competitions shall last no longer than sixty days from the date the Administrator provides the firms with a competition program and the competitions shall elicit from each firms preliminary design concepts only.

(d) The Administrator shall negotiate first with the firm judged at the conclusion of each competition to have demonstrated the best design approach to the project. The Administrator shall make public and provide to the competing firms at the time a selection is announced under any of the provisions of this section, a brief report describing the reasons for the selections made.

(e) The Administrator shall provide, in total stipends or prizes to all of the firms that take part in any one competition conducted under this section, a sum equal to no more than one-half of one percent of the expected cost of the design and construction of the project, and shall conduct each competition under such rules and procedures as will assure that fair compensation for work required from the firms does not exceed that amount.

(f) The Administrator is authorized to acquire the services of privately employed architects, engineers, and other citizens on a temporary basis to serve on pannels to assist in selecting and judging architectural firms under the provisions of this section. Persons so employed shall not be considered special Government employees under the provisions of section 201(a) of the Ethics in Government Act of 1968.

TITLE VII—LEASING

SEC. 701. It is the policy of the United States to house Government offices in public buildings. Space shall be leased to accommodate the emergency or temporary requirements of the Government, to accommodate Government activities of insufficient scale to warrant providing a public building, and to take account of conditions that make Government construction or acquisition of necessary public building space economically infeasible or disadvantageous.

SEC. 702. (a) In recommending projects and actions to accommodate the public building needs of the United States in accordance with section 801 of this Act, the Administrator shall provide realistic comparisions of the long-term costs and benefits of construction, acquistion, and leasing. Such comparisions shall consider, as necessary, assumptions of present and future inflation, interest rates, and operating and other expenses of the various alternatives. In any case in which the Administrator recommends a project or action other *than that for which the long-term costs are lowest, he shall explain the basis for his alternative recommendation.*

(b) Within nine months of the date of enactment of this Act, the Director of the Office of Management and Budget, the Director of the Congressional Budget Office, and the Administrator shall jointly submit to the Committee on Environment and Public Works of the Sencate and the Committee on Public Works and Transportation of the House of Representatives a report detailing methods to be used in computing the long-term comparisons of costs and benefits required pursuant to this section. The report may be prepared in cooperation with experts from private industry and shall include a comparison of the methods proposed with those used in private industry.

(c)(1) It is the sense of the Congress that long-term economies would be realized by providing, within ten years of the date of enactment of this Act, offices in public buildings to no fewer than seventy-five percent of the officers and employees of the Government whose offices are provided under this Act.

(2) In order to attain the percentage of offices to be provided in public buildings pursuant to paragraph (1) of this subsection, the Administrator shall reduce the average amount of space assigned to each officer and employee of the Government, acquire or construct public buildings, or utilize any combination of these actions, as necessary.

(3) To the extent possible, the percentage of offices to be provided in public building space pursuant to paragraph (1) of this subsection shall be attained uniformly throughout the Nation: Provided, That, in attempting to attain this percentage, the Administrator shall take into account comparative local vacancy and rental rates for office space, and other market conditions and program considerations in such manner as to maximize the economic benefit to the Federal Government and to minimize economic disruption to localities throughout the Nation.

SEC. 703. Notwithstanding the provisions of section 210(h)(1) of the Federal Property and Administrative Services Act of 1949, the Administrator shall not make any agreement or undertake any commitments that will cause the construction of any building other than a Government-owned building unless before so agreeing or undertaking—

(1) The Administrator establishes specifications for the building indentical to the criteria established pursuant to section 302 of this act for the construction of public buildings; and

(2) the Administrator secures the option to purchase the building at any time during or at the conclusion of the lease term, unless the Administrator provides the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives an explanation of his reasons for not securing such an option; and

(3) the Administrator has conformed with the provisions of section 706 of this Act.

SEC. 704 Except as may be necessary to meet temporary and urgent requirements that cannot be met in public buildings, it is the policy *of the United States not to lease space to accommodate, and no additional space shall henceforth be leased to accommodate—*

(1) major computer operations;

(2) offices that conduct secure or sensitive activities related the national defense or security, except to the extent that it would be inappropriate to locate such offices in public buildings or in other facilities identified with the United States Government;

(3) Offices, the nature of which would require major alterations in the structure or mechanical systems of the building to be leased; or

(4) permanent courtrooms, judicial chambers, or administrative offices for any United States court.

SEC. 705. (a) For the purposes of this Act, Sections 321 and 322 of the Act entitled "An Act making appropriations for the legislative branch of the government for the fiscal year ending June 30, 1933, and for other purposes", aproved June 30, 1932, shall not apply.

(b) No lease may be negotiated for a rental exceeding the current commercial rates and charges for space and services of nearest comparable quality in that locality.

SEC. 706. (a)(1) The Administrator shall publicly solicit sealed bids or competitive proposals to procure leased space for the Government. Each such solicitation shall specify any special requirements including building design, configuration, or location without unnecessarily impairing competition among responsible bidders or offerors

(2) Sealed bids shall be opened at a time and place specified in the solicitation and shall be evaluated without discussions with the bidders. A contract shall be awarded with reasonable promptness to the responsible bidder whose bid conforms to the solicitation and is most advantageous to the Government, considering the price and the factors included in the solicitation.

(3) Competitive proposals shall be submitted by a time and at a place specified in the solicitation and shall be evaluated through discussions with the offerors. A contract shall be awarded with reasonable promptness to the responsible offeror whose proposal is most advantageous to the Government, considering price and the factors included in the solicitation.

(4) Notwithstanding the provisions of paragraphs (2) and (3) of this subsection, all sealed bids and competitive proposals received in response to a solicitation may be rejected if the Administrator determines that such action is in the public interest.

(b) (1) Notwithstanding the requirements of subsection (a) of this section, the Administrator may award a lease on a non-competitive basis if the space needed by the Government is available from only one source and no other space will satisfy this need, if the need for space is of such urgency that the Government would be seriously injured by the delay involved in using competitive procedures, or if the disclosure of the need for space by public advertisement would compromise the national security.

(2) Except when disclosure of the need for space would compromise the national security, the Administrator shall notify the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of

Representatives regarding the award of any lease contract without full use of competitive procedures.

SEC. 707. No option to purchase a building shall be included in a lease unless the cost of exercising such option is identified separately from any lease payment and unless the estimated total cost of the lease and the exercise of the option to purchase has first been authorized under the provisions of title VIII of this Act.

SEC. 708. The Administrator shall provide a copy of the lease agreement between the Government and the owner of each leased building, and a copy of subsequent additions or revisions to the lease agreement, to the highest ranking official in the leased building of each Federal agency occupying space in the building.

TITLE VIII—CONGRESSIONAL AUTHORIZATION

SEC. 801. (a) The Administrator shall submit to the Congress, not later than the fifteenth day after Congress convenes each year, a program of projects and actions for the next succeeding fiscal year which the Administrator deems necessary in carrying out his duties under this Act. Such program shall include but is not limited to—

(1) a five-year plan for accommodating the public building needs of the United States,

(2) a list, in priority order, of construction, renovation, and acquisition projects for which authorization is for appropriations are requested for the next succeeding fiscal year, including a description of the project, and the number of square feet of space involved and the estimated annual and total cost of each project,

(3) a list, in priority order, of lease and lease renewals for which authorizations for appropriations are requested for the next fiscal year and the estimated annual and total cost of each lease,

(4) a list of all public buildings proposed to be vocated in whole or in part, to be exchanged for other property, or to be disposed of,

(5) a proposed budget for the repair and maintenance of public buildings,

(6) a year by year program that would meet the provisions of section 702(c) of this Act and an analysis of the costs and benefits of the program, together with an analysis of costs and savings of alternative programs,

(7) a description of how the projects and leases included in the program, separately and together, conform to the provisions of this Act and the estimated annual and total cost of each project and lease,

(8) a list of construction, renovation, and design projects proposed, pursuant to section 802(c) of this Act, to commence in the next succeeding fiscal year.

(b)(1) The Administrator shall certify in the annual program submitted in accordance with subsection (a) that locally elected officials have been afforded the opportunity for a public hearing in the locality or proposed locality of each major construction, renovation, or acquisition project included in the annual program. Such hearing shall consider the economic and social effects of the project, its

impact on the environment, its consistency with the goals and objectives of such urban planning as has been promulgated by the community, and its conformance with sections 202, 204, and titles III and IV of this Act: Provided, That, only such facts and issues as can reasonably be adduced during the planning and preliminary design of a project shall be considered at such hearing.

(2) The Administrator shall provide, along with each certification regarding a public hearing, the final environmental impact statement prepared pursuant to the National Environmental Policy Act, and a report which indicates the consideration given to facts and issues concerning the project and various alternatives which were raised during the hearing or which were otherwise considered.

LIMITATIONS ON AUTHORIZATIONS AND APPROPRIATIONS

SEC. 802. (a) No appropriation shall be made by the Congress or obligated by the Administrator to carry out the purpose of this Act, unless it has been authorized by the Congress in accordance with section 803 of this Act.

(b) No public building construction, renovation, or acquisition shall be commenced unless an appropriation has first been made for the estimated cost of completion of such construction, renovation, or acquisition in the fiscal year for which such approprition is authorized. Beginning in fiscal year 1985, no lease shall be entered into unless an appropriation has first been made for the estimated maximum cost of such lease over its entire term, including future cost escalations pursuant to contract.

(c) Notwithstanding subsection (b) of this section, the Congress may make an appropriation and the Administrator may obligate funds for design of any construction or renovation project which has been included in the five-year plan submitted to the Congress pursuant to section 801 of this Act and is scheduled for construction in the next or second succeeding fiscal year; Provided, that such design project and funds have been authorized in accordance with section 803 of this Act. The authority of this subsection shall expire at the end of fiscal year 1987.

AUTHORIZATIONS FOR APPROPRIATIONS

SEC. 803. (a) In order to carry out the purposes of this Act and commensurate with the Congressional Budget and Impoundment Control Act of 1974, the Committee on Environment and Public Works of the Senate, and the Committee on Public Works and Transportation of the House of Representatives shall report to the Senate and the House of Representatives, respectively, by May 15 of each year, a bill authorizing appropriations for the Public Buildings Service for the fiscal year beginning on October 1 of that year.

(b) The bill reported pursuant to subsection (a) of this section by the Committee on Environment and Public Works of the Senate shall, and the bill reported pursuant to subsection (a) of this section by the Committee on Public Works and Transportation of the House of Representatives may, specifically authorize the location and amount of any major construction and acquisition project, and any major renovation, alteration and repair project.

(c) The Committee of conference on authorization bills committed to conference in accordance with this section may include in its report major construction and acquisition projects and major renovation, alteration and repair projects approved by resolutions of the Committee on Public Works and Transportation of the House of Representatives prior to May 15 of the year preceding the beginning of the fiscal year for which the bill authorizes appropriations; Provided, That the aggregate monetary authorization in the report of the committee of conference may not exceed the higher of the aggregate authorizations contained in the bills committed to conference.

SEC. 804. Funds which are appropriated in accordance with section 803 of this Act for a construction, renovation, repair, acquisition, or alteration project or for lease shall remain available for obligation and expenditure without regard to fiscal year limitations: Provided that such funds have been appropriated pursuant to section 802(b) of this Act, and that the construction, renovation, or acquisition project has commenced during the same fiscal year such funds are appropriated.

SEC. 805. Ten percent of the funds made available to the Public Buildings Service for construction, renovation, alteration, and repair of public buildings shall be available for repair or alteration projects and leases, not otherwise authorized by this Act, if the Administrator certifies that the space to be repaired, altered, or leased resulted from emergency building conditions or changing or additional programs of Federal agencies not anticipated at the time the program required by section 801 of this Act was submitted. Funds for such projects may not be obligated until thirty days after the submission by the Administrator of an explanatory statement to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives. The explanatory statement shall, among other things, include a statement of the reasons why such project or lease cannot be deferred for authorization in the next succeeding fiscal year.

SEC. 806. (a) When the cost of a project exceeds the estimated maximum cost authorized in accordance with section 803 of this Act, the Administrator is authorized to either (A) increase expenditures by an amount equal to the percentage increase in the cost of the project, or (B) decrease the number of gross square feet to be constructed in the project. In no event shall the total increase in expenditures authorized by clause (A) of this paragraph exceed 10 per centum of the estimated maximum cost of the project. In no event shall the total decrease in square feet authorized under clause (B) of this paragraph exceed more than 10 per centum of the gross square feet stated in the approved authorization.

(b) If the Administrator determines that the cost of a project exceeds the estimated maximum cost authorized under section 803 of this Act to such an extent that action under subsection (a) of this section is not sufficient to meet such excess cost, the Administrator shall report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives concerning the project. Such report shall include recommendations by the Administrator as to appropriate action to enable the continuance of the project. The Administra-

tor may not take any action to continue the project, other than the action authorized by subsection (a) of this section, unless such action has been authorized by the Congress in accordance with section 803 of this Act.

TITLE IX—PUBLIC BUILDINGS FINANCING

SEC. 901. (a)(1) Subsection (f), (j), and (k) of section 210 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490) are repealed.

(2) Subsections (g), (h), and (i) of such section are redesignated as subsections (f), (g), and (h), respectively.

(3) Subsection (a) of such section is amended by striking out "fund established by subsection (f) of this section" and inserting in lieu thereof "general fund of the Treasury".

(b)(1) Except as provided in paragraph (2), any amounts remaining in the fund established under section 210(f) of the Federal Property and Administrative Services Act of 1949 on the day before the effective date of this section shall revert to the general fund of the Treasury on such effective date.

(2)(A) Any amount in the fund for which, prior to the effective date of this section, obligations have been made but have not been liquidated, shall be transferred into an appropriate account of the General Services Administration established under section 1552 (a)(1) of title 31, United States Code, for the payment of unliquidated obligations.

(B) Any amount in the fund which has been appropriated prior to the effective date of this section but for which obligations have not been made prior to such effective date, shall remain available until expended.

(c) Any reference in any law enacted before the date of enactment of this Act to deposits into the fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949 shall be deemed to refer to deposits into the general fund of the Treasury.

(d) Notwithstanding section 1001, this section shall take effect on the first day of the first fiscal year beginning after the date of enactment of this Act.

TITLE X—MISCELLANEOUS

SEC. 1001. This Act shall become effective on January 1, 1984.

FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949

* * * * * * *

OPERATION OF BUILDINGS AND RELATED ACTIVITIES

SEC. 210. (a) Whenever and to the extent that the Administrator has been or hereafter may be authorized by any provision of law other than this subsection to maintain, operate, and protect any building, property, or grounds situated in or outside the District of Columbia, including the construction, repair, preservation, demolition, furnishing, and equipment thereof, he is authorized in the discharge of the duties so conferred upon him—

(1) to purchase, repair, and clean uniforms for civilian employees of the General Services Administration who are required by law or regulation to wear uniform clothing;

(2) to furnish arms and ammunition for the protection force maintained by the General Services Administration;

(3) to pay ground rent for buildings owned by the United States or occupied by Federal agencies, and to pay such rent in advance when required by law or when the Administrator shall determine such action to be in the public interest;

(4) to employ and pay personnel employed in connection with the functions of operations, maintenance, and protection of property at such per diem rates as may be approved by the Administrator, not exceeding rates currently paid by private industry for similar services in the place where such services are performed;

(5) without regard to the provisions of section 322 of the Act of June 30, 1932 (47 Stat. 412), as amended, to pay rental, and to make repairs, alterations, and improvements under the terms of any lease entered into by, or transferred to, the General Services Administration for the housing of any Federal agency which on June 30, 1950, was specifically exempted by law from the requirements of said section;

(6) to obtain payments, through advances or otherwise, for services, space, quarters, maintenance, repair, or other facilities furnished, on a reimbursable basis, to any other Federal agency, or any mixed-ownership corporation (as defined in the Government Corporation Control Act), or the District of Columbia, and to credit such payments to the applicable appropriation of the General Services Administration;

(7) to make changes in, maintain, and repair the pneumatic tube system connecting buildings owned by the United States or occupied by Federal agencies in New York City installed under franchise of the city of New York, approved June 29, 1909, and June 11, 1928, and make payments of any obligations arising thereunder in accordance with the provisions of the Acts approved August 5, 1909 (36 Stat. 120), and May 15, 1928 (45 Stat. 533);

(8) to repair, alter, and improve rented premises, without regard to the 25 per centum limitation of section 322 of the Act of June 30, 1932 (47 Stat. 412), as amended, upon a determination by the Administrator that by reason of circumstances set forth in such determination the execution of such work, without reference to such limitation, is advantageous to the Government in terms of economy, efficiency, or national security: *Provided,* That such determination shall show that the total cost (rentals, repairs, alterations, or improvements) to the Government for the expected life of the lease shall be less than the cost of alternative space which needs no such repairs, alterations, or improvements. A copy of every such determination so made shall be furnished to the General Accounting Office;

(9) to pay sums in lieu of taxes on real property declared surplus by Government corporations, pursuant to the Surplus Property Act of 1944, where legal title to such property remains in any such Government corporation;

(10) to furnish utilities and other services where such utilities and other services are not provided from other sources to persons, firms, or corporations occupying or utilizing plants or portions of plants which constitute (A) a part of the National Industrial Reserve pursuant to the National Industrial Reserve Act of 1948, or (B) surplus real property, and to credit the amounts received therefrom to the applicable appropriation of the General Services Administration;

(11) at the direction of the Secretary of Defense, to use proceeds received from insurance against damage to properties of the National Industrial Reserve for repair or restoration of the damaged properties;

(12) to acquire, by purchase, condemnation, or otherwise, real estate and interests therein;

(13) to enter into lease of Federal building sites and additions to sites, including improvements thereon, until they are needed for construction purposes, at their fair rental value and upon such other terms and conditions as the Administrator deems in the public interest pursuant to the provisions of section 203(e) hereof. Such leases may be negotiated without public advertising for bids if the lessee is the former owner from whom the property was acquired by the United States or his tenant in possession, and the lease is negotiated incident to or in connection with the acquisition of the property. Rentals received under leases executed pursuant to this paragraph may be deposited into the Buildings Management Fund established by subsection (f) of this section;

(14) to enter into contracts for periods not exceeding three years for the inspection, maintenance, and repair of fixed equipment in such buildings which are federally owned;

(15) to render direct assistance to and perform special services for the Inaugural Committee (as defined in the Act of August 6, 1956, 70 Stat. 1049) during an inaugural period in connection with Presidental inaugural operations and functions, including employment of personal services without regard to the civil service and classification laws; provide Government-owned and leased space for personnel and parking; pay overtime to guard and custodial forces; erect and remove stands and platforms; provide and operate first-aid stations; provide furniture and equipment; and provide other incidental services in the discretion of the Administrator;

[(16) to enter into leases of space on major pedestrian access levels and courtyards and rooftops of any public buildings with persons, firms, or organizations engaged in commercial, cultural, educational, or recreational activities (as defined in section 105 of the Public Buildings Cooperative Use Act of 1976).]

(16) to enter into leases of space in public buildings, in accordance with section 102(a)(2) of the Public Buildings Cooperative Use Act of 1976, as amended, with persons, firms, or organizations engaged in commercial, cultural, educational, or recreational activities (as defined in section 104 of the Public Buildings Cooperative Use Act of 1976, as amended). The Administrator shall establish a rental rate for such leased space equivalent to the prevailing commercial rate for comparable

space devoted to a similar purpose in the vicinity of the public building. Such leases may be negotiated without competitive bids, but shall contain such terms and conditions and be negotiated pursuant to such procedures as the Administrator deems necessary to promote competition and to protect the public interest;

(17) to make available, on occasion, or to lease at such rates and on such other terms and conditions as the Administrator deems to be in the public interest, auditoriums, meeting rooms, courtyards, rooftops, and lobbies of public buildings to persons, firms, or organizations engaged in cultural, educational, or recreational activities (as defined in section **[**105**]** *104* of the Public Buildings Cooperative Use Act of 1976) that will not disrupt the operation of the building;

(18) to deposit into the **[**fund established by subsection (f) of this section**]** *general fund of the Treasury* all sums received under leases or rentals executed pursuant to paragraphs (16) and (17) of this subsection, and each sum shall be credited to the appropriation made for such fund applicable to the operation of such building; and

(19) to furnish utilities, maintenance, repair, and other services to persons, firms, or organizations leasing space pursuant to paragraphs (16) and (17) of this subsection. Such services may be provided during and outside of regular working hours of Federal agencies.

(b) At the request of any Federal agency or any mixed-ownership corporation (as defined in the Government Corporation Control Act), or the District of Columbia, the Administrator is hereby authorized to operate, maintain, and protect any building owned by the United States (or, in the case of any wholly owned or mixed-ownership Government corporation, by such corporation) and occupied by the agency or instrumentality making such request.

(c) At the request of any Federal agency or any mixed-ownership corporation (as defined in the Government Corporation Control Act), or the District of Columbia, the Administrator is hereby authorized (1) to acquire land for buildings and projects authorized by the Congress; (2) to make or cause to be made, under contract or otherwise, surveys and test borings and to prepare plans and specifications for such buildings and projects prior to the approval by the Attorney General of the title to the sites thereof; and (3) to contract for, and to supervise, the construction and development and the equipping of such buildings or projects. Any sum available to any such Federal agency or instrumentality for any such building or project may be transferred by such agency to the General Services Administration in advance for such purposes as the Administrator shall determine to be necessary, including the payment of salaries and expenses of personnel engaged in the preparation of plans and specifications or in field supervision, and for general office expenses to be incurred in the rendition of any such service.

(d) Whenever the Director of the Office of Management and Budget shall determine such action to be in the interest of economy or efficiency, he shall transfer to the Administrator all functions then vested in any other Federal agency with reqspect to the operation, maintenance, and custody of any office building owned by the United States or any wholly owned Government corporation, or any office building or part thereof occupied by any Federal agency under any lease, except that no transfer shall be made under this subsection—

(1) of any post-office building unless the Director shall first determine that such building is not used predominantly for post-office purposes, and functions which are transferred hereunder to the Administrator with respect to any post-office building may be delegated by him only to another officer or employee of the General Services Administration or to the Postmaster General;

(2) of any building located in any foreign country;

(3) of any building located on the grounds of any fort, camp, post, arsenal, navy yard, naval training station, airfield, proving ground, military supply depot, or school, or of any similar facility of the Department of Defense, unless and to such extent as a permit for its use by another agency or agencies shall have been issued by the Secretary of Defense or his duly authorized representative;

(4) of any building which the Director of the Office of Management and Budget finds to be a part of a group of buildings which are (A) located in the same vicinity, (B) utilized wholly or predominantly for the special purposes of the agency having custody thereof, and (C) not generally suitable for the use of other agencies; or

(5) of the Treasury Building, the Bureau of Engraving and Printing Building, the buildings occupied by the National Bureau of Standards, and the buildings under the jurisdiction of regents of the Smithsonian Institution.

(e) Notwithstanding any other provision of law, the Administrator is authorized, in accordance with policies and directives prescribed by the President under section 205(a) and after consultation with the heads of the executive agencies affected, to assign and reassign space of all executive agencies in Government-owned and leased buildings in the outside the District of Columbia upon a determination by the Administrator that such assignment or reassignment is advantageous to the Government in terms of economy, efficiency, or national security. The Administrator shall, where practicable, give priority in the assignment of space on any major pedestrian access level not leased under the terms of subsection (a)(16) or (a)(17) of this section in such buildings to Federal activities requiring regular contact with members of the public. To the extent such space is unavailable, the Administrator shall provide space with maximum ease of access to building entrances.

[(f)(1) There is hereby established in the Treasury of the United States on such date as may be determined by the Administrator, a fund into which there shall be deposited the following revenues and collections:

[(A) User charges made pursuant to subsection (j) of this section payable in advance or otherwise.

[(B) Proceeds with respect to building sites authroized to be leased pursuant to subsection (a) of this section.

[(C) Receipts from carriers and others for loss of, or damage to, property belonging to the fund.

Moneys deposited into the fund shall be available for expenditure for real property management and related activities in such amounts as are specified in annual appropriations Acts without regard to fiscal year limitations.

[(3) There are hereby merged with the fund established under this subsection, unexpected balances of (A) the Buildings Management Fund (including any surplus therein), established pursuant to this subsection prior to its amendment by the Public Buildings Amendments of 1972; (B) the Construction Services Fund, created by section 296 of this title; and (C) any funds appropriated to General Services Administration under the headings "repair and Improvements of Public Buildings", "Construction, Public Buildings Projects", "Sites and Expenses, Public Buildings Projects", "Construction Federal Office Building Numbered 7, Washington, District of Columbia", and "Additional Court Facilities", in any appropriation Act, for the years prior to the fiscal year in which the fund becomes operational. The fund shall assume all the liabilities, obligations, and commitments of the said (1) Buildings Management Fund, (2) Construction Services Funds, and (3) the appropriations specified in (C) hereof.

[(4) There is authorized to be appropriated to the fund for the fiscal year in which the fund becomes operational, and for the succeeding fiscal year, such advances to the fund as may be necessary to carry out its purposes. Such advances shall be repaid within 30 years, with interest at a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining period to maturity comparable to the average maturities of such advances adjusted to the nearest one-eight of 1 per centum.

[(5) In any fiscal year there may be deposited to miscellaneous receipts in the Treasury of the United States such amount as may be specified in appropriation Acts.

[(6) Nothing in this section shall preclude the Administrator from providing special services not included in the standard level user charge on a reimbursable basis and such reimbursements may be credited to the fund established under this subsection.]

[(g)](f) Whenever an agency, or an organizational unit thereof, occupying a substantial and identifiable segment of space (building, floor, wing, and so forth) in a location controlled for purposes of assignment of space by the Administrator, is moved to such a substantial and identifiable segment of space in the same or another location so controlled by the Administrator, furniture and furnishings used by the moving agency or unit shall be moved only if the Administrator after consultation with the head of the agency concerned, and with due regard for the program activities of such agency, shall determine that suitable replacements cannot more economically and efficiently be made available in the new space. In the absence of such determination, suitable furniture and furnishings for the new space shall be provided, as the Administrator shall determine to be more economical and efficient, (1) from stocks under the control of the moving agency or (2) from stocks available to the Administrator, but the same or similar items shall not be provided from both sources. When furniture and furnishings are provided for the new space from stocks available to the Administrator, the items so provided shall remain in the control of the Administrator, and the furniture and furnishings previously used by the moving agency or unit and not moved to the new space shall pass to the control of the Administrator without reimbursement. When furniture and furnishings not so moved are carried as assets of a revolving or working capital fund at the time they pass to the control of the Administrator, the net book value thereof shall be written off and the capital of the fund diminished by the amount of such write-off. When furniture or furnishings which have been purchased from trust funds pass to the control of the Administrator pursuant to this subsection, reimbursement shall be made by the Administrator for the fair market value of such furniture and furnishings.

[(h)](g)(1) The Administrator is authorized to enter into lease agreements with any person, copartnership, corporation, or other public or private entity, which do not bind the Government for periods in excess of twenty years for each such lease agreement, on such terms as he deems to be in the interest of the United States and necessary for the accommodation of Federal agencies in buildings and improvements which are in existence or to be erected by the lessor for such purposes and to assign and reassign space therein to Federal agencies.

(2) If the unexpired portion of any lease of space to the Government is determined by the Administrator to be surplus property and the property is thereafter disposed of by sublease by the Administrator, the Administrator is authorized, notwithstanding section 204(a), to deposit rental received in the buildings management fund (40 U.S.C. 490(f) and defray from the fund any costs necessary to provide services to the Government's lessee and to pay the rent not otherwise provided for on the lease of the space to the Government.

[(i)](h)(1) Any executive agency is authorized to install, repair, and replace sidewalks around buildings, installations, properties, or grounds under the control of such agency and owned by the United States within the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States, by reimbursement to a State or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, and a possession of the United States or otherwise.

(2) Installation, repair, and replacement under this subsection shall be performed in accordance with regulations to be prescribed by the Administrator of General Services with the approval of the Director of the Office of Management and Budget.

(3) Funds appropriated to the agency for installation, repair and maintenance, generally shall be available for expenditure to accomplish the purpose of this subsection.

(4) Nothing contained herein shall increase or enlarge the tort liability of the United States for injuries to persons or damages to property beyond such liability presently existing by virture of any other law.

[(j) The Administrator is authorized and directed to charge anyone furnished services, space, quarters, maintenance, repair, or other facilities (hereinafter referred to as space and services), at rates to be determined by the Administrator from time to time and provided for in regulations issued by him. Such rates and charges shall approximate commercial charges for comparable space and services, except that with respect to those buildings for which the Administrator of General Services is responsible for alterations only (as the term "alter" is defined in section 612(5) of Title 40) the rates charged the occupant for such services shall be fixed by the Administrator so as to recover only the approximate applicable cost incurred by him in providing such alterations. The Administrator may exempt anyone from the charges required by this subsection if he determines that such charges would be infeasible or impractical. To the extent any such exemption is granted, appropriations to the General Services Administration are authorized to reimburse the fund for any loss of revenue.

⟦(k) Any executive agency, other than the General Services Administration, which provides to anyone space and services set forth in subsection (j) of this section, is authorized to charge the occupant for such space and services at rates approved by the Administrator. Moneys derived by such executive agency from such rates or fees shall be credited to the appropriation or fund initially charged for providing the service, except that amounts which are in excess of actual operating and maintenance costs of providing the services shall be credited to miscellaneous receipts unless otherwise authorized by law.⟧

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PUBLIC BUILDINGS COOPERATIVE USE ACT OF 1976

TITLE I

SEC. 101. This title may be cited as the "Public Buildings Cooperative Use Act of 1976".

SEC. 102. (a) In order to carry out his duties under this title and under any other authority with respect to constructing, operating, maintaining, altering, and otherwise managing or acquiring space necessary for the accommodation of Federal agencies and to accomplish the purposes of this title, the Administrator shall—

(1) acquire and utilize space in suitable buildings of historic, architectural, or cultrual significance, unless use of such space would not prove feasible and prudent compared with available alternatives;

⟦(2) encourage the location of commercial, cultural, educational, and recreational facilities and activities within public buildings;⟧

(2) encourage the location of commercial, cultural, educational, and recreational activities as tenants primarily on major pedestrian access levels, courtyards, and rooftops of public buildings, and design, construct and lease space suitable for such activities: Provided, That the amount of space so leased in any public building—

(A) shall be determined by the Administrator in light of the market for such activities or the need and potential for promoting commercial or cultural activity in the vicinity of

the building or serving the employees and visitors in the building; and

(B) shall not exceed 15 per centum of the occupiable space in the public building, except in instances where the Administrator shall determine that exceptional local commercial, cultural, or educational needs or opportunities justify the leasing of a greater amount of space.

(3) provide and maintain space, facilities, and activities, to the extent practicable, which encourage public access to and stimulate public pedestrian traffic around, into, and through public buildings, permitting cooperative improvement to and uses of the area between the building and the street, so that such activities complement and supplement commercial, cultural, educational, and recreational resources in the neighborhood of public buildings; and

[(4) encourage the public use of public buildings for cultural, educational, and recreational activities.]

"(4) encourage the public use of public buildings for occasional cultural, educational, and recreational activities and design, construct, and maintain space and equipment in public buildings suitable for such activities, including activities described in section 503(a) of the Public Buildings Act of 1981.

(b) In carrying out his duties under subsection (a) of this section, the Administrator shall consult with Governors, areawide agencies established pursuant to title II of the Demonstration Cities and Metropolitan Development Act of 1966 and title IV of the Intergovernmental Cooperation Act of 1968, and chief executive officers of those units of general local government in each area served by an existing or proposed public building, and shall solicit the comments of such other community leaders and members of the general public as he deems appropriate.

[SEC. 103. The Public Buildings Act of 1959 is amended—

[(1) by striking out at the end of section 7(a)(3) the word "buildings;" and inserting in lieu thereof "buildings, especially such of those buildings as enhance the architectural, historical, social, cultural, and economic environment of the locality;";

[(2) by striking out "and" at the end of section 7(a)(4), by redesignating section 7(a)(5) as section 7(a)(6), and by inserting the following new section 7(a)(5):

[(3) by redesignating section 12(c) and section 12(d) and all references thereto as section 12(d) and section 12(e), respectively, and by inserting after section 12(b) the following new section 12(c):

"(c) Whenever the Administrator undertakes a survey of the public buildings needs of the Federal Government within a geographical area, he shall request that, within sixty days, the Advisory Council on Historic Preservation established by title II of the Act of October 15, 1966 (16 U.S.C. 470i, identify any existing buildings within such geographical area that (1) are of historic, architectural, or cultural significance (as defined in section 105 of the Public Buildings Cooperative Use Act of 1976) and (2) would be suitable, whether or not in need of repair, alteration, or addition, for acquisition or purchase to meet the public buildings needs of the Federal Government.".

[(5) a statement by the Administrator of the economic and other justifications for not acquiring or purchasing a building or buildings identified to the Administrator pursuant to section 12(c) of this Act as suitable for the public building needs of the Federal Government; and]

SEC. [104] *103.* (a) Section 210(a) of the Federal Property and Administrative Services Act of 1949 is amended by striking out "and" at the end of paragraph (14), by striking out the period at the end of paragraph (15) and inserting in lieu thereof a semicolon, and by adding after such paragraph the following new paragraphs:

[(16) to enter into leases of space on major pedestrian access levels and courtyards and rooftops of any public building with persons, firms, or organizations engaged in commercial, cultural, educational, or recreational activities (as defined in section 105 of the Public Buildings Cooperative Use Act of 1976).]

(16) to enter into leases of space in public buildings, in accordance with section 102(a)(2) of the Public Buildings Cooperative Use Act of 1976, as amended, with persons, firms, or organizations engaged in commercial, cultural, educational, or recreational activities (as defined in section 104 of the Public Buildings Cooperative Use Act of 1976, as amended). The Administrator shall establish a rental rate for such leased space equivalent to the prevailing commercial rate for comparable space devoted to a similar purpose in the vicinity of the public building. Such leases may be negotiated without competitive bids, but shall contain such terms and conditions and be negotiated pursuant to such procedures as the Administrator deems necessary to promote competition and to protect the public interest;

"(17) to make available, on occasions, or to lease at such rates and on such other terms and conditions as the Administrator deems to be in the public interest, auditoriums, meeting rooms, courtyards, rooftops, and lobbies of public buildings to persons, firms, or organizations engaged in cultural, educational, or recreational activities (as defined in section [105] *104* of the Public Buildings Cooperative Use Act of 1976) that will not disrupt the operation of the building;

"(18) to deposit into the fund established by subsection (f) of this section all sums received under leases or rentals executed pursuant to paragraphs (16) and (17) of this subsection, and each sum shall be credited to the appropriation made for such fund applicable to the operation of such building; and

"(19) to furnish utilities, maintenance, repair, and other services to persons, firms, or organizations leasing space pursuant to paragraphs (16) and (17) of this subsection. Such services may be provided during and outside of regular working hours of Federal agencies.".

(b) The Federal Property and Administrative Services Act of 1949 is amended by adding at the end of section 210(e) the following:

"The Administrator shall, where practicable, give priority in the assignment of space on any major pedestrian access level not leased under the terms of subsection (a)(16) or (a)(17) of this section in such buildings to Federal activities requiring regular contact with members of the public. To the extent such space is unavailable, the Administrator shall provide space with maximum ease of access to building entrances.".

SEC. [105.] *104.* As used in this title and in the amendments made by this title—

(1) The term "Administrator" means the Administrator of General Services.

[(2) The terms "public building" and "Federal agency" have the same meaning as is given them in the Public Buildings Act of 1959.]

(2) The terms "public building" and "Federal agency" have the same meaning as are given them in section 113 of the Public Buildings Act of 1981.

(3) The term "unit of general local government" means any city, county, town, parish, village, or other general purpose political subdivision of a State.

(4) The term "historical, architectural, or cultural significance" includes, but is not limited to, buildings listed or eligible to be listed on the National Register established under section 101 of the Act of October 15, 1966 (16 U.S.C. 470a).

(5) The term "commercial activities" includes, but is not limited to, the operations of restaurants, food stores, craft stores, dry goods stores, financial institutions, and display facilities.

(6) The term "cultural activities" includes, but is not limited to, film, dramatic, dance, and musical presentations, and fine art exhibits, whether or not such activities are intended to make a profit.

(7) The term "educational activities" includes, but is not limited to, the operations of libraries, schools, day care centers, laboratories, and lecture and demonstration facilities.

(8) The term "recreational activities" includes, but is not limited to, the operations of gymnasiums and related facilities.

ARCHITECTURAL BARRIERS ACT OF 1968, AS AMENDED

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, as used in this Act, the term "building" means any building or facility (other than (A) a privately owned residential structure not leased by the Government for subsidized housing programs and (B) any building or facility on a military installation designed and constructed primarily for use by able bodied military personnel) the intended use for which either will require that such employment or residence therein of physicially handicapped persons which building or facility is—

(1) to be [constructed or altered] *constructed, altered, or acquired* by the United States;

(2) to be leased in whole or in part by the United States after the date of enactment of this act;

(3) to be financed in whole or in part by a grant or a loan made by the United States after the date of enactment of this Act is such building or facility is subject to standards for design, construction, or alteration issued under authority of the law authorizing such grant or loan; or

(4) to be constructed under authority of the National Capital Transportation Act of 1960, the National Capital Transportation Act of 1965, or title III of the Washington Metropolitan Area Transit Regulation Compact.

Sec. 2. The Administrator of General Services, in consultation with the Secretary of Health, Education, and Welfare, shall prescribe standards for the design, construction, and alteration of buildings (other than residential structures subject to this Act and buildings, structures, and facilities of the Department of Defense and of the United States Postal Service subject to this Act) to insure whenever possible [that physically handicapped persons will have ready access to, and use of, such buildings.] *such buildings are fully accessible to physically handicapped persons.*

Sec. 3. The Secretary of Housing and Urban Development, in consultation with the Secretary of Health, Education, and Welfare, shall prescribe standards for the design, construction, and alteration of buildings which are residential structures subject to this Act to insure whenever possible [that physically handicapped persons will have ready access to, and use of, such buildings.] *such buildings are fully accessible to physically handicapped persons.*

Sec. 4. The Secretary of Defense, in consultation with the Secretary of Health, Education, and Welfare, shall prescribe standards for the design, construction, and alteration of buildings, structures, and facilities of the Department of Defense subject to this Act to insure [that physically handicapped persons will have ready access to, and use of, such buildings.] *such buildings are fully accessible to physically handicapped persons.*

Sec. 4a. The United States Postal Service, in consultation with the Secretary of Health, Education, and Welfare, shall prescribe such standards for the design, construction, and alteration of its buildings to insure whenever possible that physically handicapped persons will have ready access to, and use of, such buildings.

Sec. 5. Every building designed, constructed, or altered after the effective date of a standard issued under this Act which is applicable to such building, shall be designed, constructed, or altered in accordance with such standard, *and any contract for all or any part of the design, construction, or alteration shall so provide.*

Sec. 6. *(a)* The Administrator of General Services, with respect to standards issued under section 2 of this Act, and the Secretary of Housing and Urban Development, with respect to standards issued under section 3 of this Act, and the Secretary of Defense with respect to standards issued under section 4 of this Act, and the United States Postal Service with respect to standards issued under section 4a of this Act *(hereinafter in this section referred to as the "standard-prescribing agency head concerned")*—

(1) is authorized to modify or waive any such standard, on a case-by-case basis, upon application made by the head of the department, agency, or instrumentality of the United States concerned, and upon a determination by [the Administrator or Secretary, as the case may be] *the standard-prescribing agency head concerned* that such modification or waiver is clearly necessary, and

(2) shall establish a system of continuing surveys and investigations to insure compliance with such standards.

(b) No action may be taken under this section to modify or waive a standard issued under this Act unless—

(1) in the case of a waiver, the waiver pertains to a building to be leased (other than a building to be constructed for lease) and the waiver is necessary to meet an emergency situation, or

(2) in the case of a modification (A) the modification is no broader than is necessary, and (B) in the case of a building to be constructed or altered, (i) the need for such modification was not reasonably foreseeable when the design for such construction or alteration was approved, or, (ii) the standard-prescribing agency head concerned personally determines, pursuant to regulations prescribed by such agency head, that such modification is essential to achieving the purpose of the construction or alteration.

SEC. 7. (a) The Administrator of General Services shall report to Congress during the first week of January of each year on his activities and those of other departments, agencies, and instrumentalities of the Federal Government under this Act during the preceding fiscal year including, but not limited to, standards issued, revised, amended, or repealed under this Act and all case-by-case modifications, and waivers of such standards during such year.

(b) The Architectural and Transportation Barriers Compliance Board established by section 502 of the Rehabilitation Act of 1973 (Public Law 93-112) shall report to the Public Works and Transportation Committee of the House of Representatives and the Public Works Committee of the Senate during the first week of January of each year on its activities and actions to insure compliance with the standards prescribed under this Act.

SEC. 8. As used in this Act—

(1) the term "physically handicapped person" means any individual with a physical impairment that precludes such person's use of a building to the same extent that an individual with unimpaired mobility can use such building.

(2) the term "fully accessible" means the absence or elimination of physical and communications barriers to the ingress, egress, movement throughout, and use of a building by physically handicapped persons and the incorporation of such equipment as is necessary to provide such ingress, egress, movement, and use and, in a building of historic, architectural, or cultural significance, the elimination of such barriers and the incorporation of such equipment in such a manner as to be compatible with the significant architectural features of the building to the maximum extent possible.

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